LABOR-MANAGEMENT RELATIONS WITHIN THE FEDERAL SECTOR: ITS EVOLVEMENT AND APPLICATION.

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NAVAL POSTGRADUATE SCHOOL
Monterey, California

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WITHIN THE FEDERAL SECTOR:
ITS EVOLVEMENT AND APPLICATION

by

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This thesis examines labor-management relations within the federal government and particularly the United States Navy. It accomplishes this by tracing the evolution of organized labor's growth and influence during its early history. It familiarizes the reader with the establishment of organized labor institutions within the federal government including operation under an Executive Order environment. Various statistics are provided

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19.

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Labor-Management Relations Within the Federal Sector: Its Evolvement and Application

by

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This thesis examines labor-management relations within the federal government and particularly the United States Navy. It accomplishes this by tracing the evolution of organized labor's growth and influence during its early history. It familiarizes the reader with the establishment of organized labor institutions within the federal government including operation under an Executive Order environment. Various statistics are provided supporting statements of growth and organizational sophistication. Examples of labor-management field experience are described to further familiarize the reader with the United States Navy Office of Civilian Manpower Management policies regarding labor-relations management. Finally, current initiatives modifying existing Executive Order procedures or replacing them with Congressional legislation are examined. Conclusions and recommendations of questions requiring further study are offered where justified.

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I. INTRODUCTION

Organized labor is a mature and distinguished institution within the federal sector of our government. Industrial unionism was present within United States Naval shipyards in the early 1800's and gained important concessions for Navy civilian employees through the lobbying and bargaining process. Despite this tradition of unionism, many managers, both military and civilian, are unaware and inexperienced in the intracacies of labor-management relations in today's environment of high technology and sophisticated organizations. This condition cannot be expected to prevail long because of strong union Congressional initiatives calling for labor legislation in the federal sector and an increasing competence in collective bargaining techniques at the activity level. The Navy manager of today is in a very dynamic and formative period for organized labor in the federal sector.

The Department of Defense has assumed a leadership role in labor-management relations within the executive branch especially since issuance of the first Executive Order establishing a federal program in 1962. The United States Navy has created professional capability in labor-management relations within its Office of Civilian Manpower Management. Field Activity capability is located within the staff of the local Civilian Personnel Office and a few individual line managers with special training or experience. Field activity

labor-management relations capability, while not able to match the expertise of the Office of Civilian Manpower Management, has been adequate for the first ten years of the Executive Order program.

This thesis briefly traces the historical evolution of organized labor with emphasis on the federal sector. The reader is acquainted with important legal aspects and the procedural processes of organized labor institutions. Problems of both labor and management under the current Executive Order concept of operations are identified. Liberal use of statistics has been emphasized to supplement and clarify discussion topics. In addition, several Navy field labor-management relations cases have been included to provide a practical demonstration of current problems.

Finally, a discussion of anticipated changes to Executive Order 11491 (as amended) is provided following a description of current Federal Labor Relations Council hearings and key pending Congressional legislation in the federal labor-management relations field. Conclusions are offered by the author in those areas felt most pertinent.

It is hoped that this thesis will be a useful learning device for managers and labor-management relations novices alike. Further, it is hoped that the conclusions and recommendations regarding questions requiring further study will provide meaningful guidance to those readers interested in future Command and Activity level labor-management relations needs.

II. A BRIEF HISTORY OF THE ORGANIZED LABOR MOVEMENT

A. THE CHARACTER OF AMERICAN UNIONISM

American unionism is diverse and defies generalizations. Currently, the U. S. labor movement is a mature and reasonably well-accepted institution of approximately 20 million organized employees. A short definition of American Unions might be "associations of employees that seek to improve the economic position of their members primarily through collective bargaining with employers" [Reference 1].

It is generally accepted that there are a number of essential prerequisites for a successful labor movement in the United States. These include: (1) a sufficient mass of persons who depend upon hourly wages for a livelihood, (2) a recognition by the working mass that they will continue to be dependent upon hourly earnings for a living, (3) the worker must see his environment as a place of scarcity where job security and opportunity must be protected through a collective organization, (4) the labor movement must be in basic harmony with the society in which it exists, (5) the labor movement must be granted a permissive legal environment in which to grow, and finally, (6) the union organization must have competent leadership and business management ability [Ref. 1].

It is interesting to note that the United States is the only important country whose labor movement is relatively free of political or religious ideology.

B. A BRIEF HISTORICAL SKETCH OF AMERICAN UNIONISM

For organizational purposes the American labor movement will be divided into four distinct periods. These include: (1) the Non-unionism period, (2) the Business-unionism period, (3) the Industrial-unionism period and (4) the Contemporary-union period [Ref. 2]. These divisions closely parallel the actual growth and maturity stages of the labor movement and should assist the reader in classifying the important periods of Ameircan unionism.

1. The Non-unionism Period

Trade unionism began very early in our country's history. Organizations of printers and shoemakers existed in Philadelphia and New York before 1800. The first recorded strike occured in Philadelphia in 1786 involving journeyman printers. The period of Non-unionism began in the late 1700's and lasted for approximately 100 years.

Early labor organizing was primarily limited to skilled tradesmen since they possessed the necessary skills to form and operate a union and were toally committed to their trades. These early organizations met severe hostility from the courts as well as employers. Often strikers were found guilty of criminal conspiracy under common law. Collective bargaining during this period was characterized by drawing up lists of wage demands which were presented to the master craftsman. By 1820 unionism had spread to many crafts including hatters, tailors, weavers and carpenters. The year 1827 marked the beginning of union federations when a number of local trade unions in Philadelphia joined together to form a "City Centrals."Other large eastern

seaboard cities formed city centrals through the 1830's. Dominating the labor issues during this period was the demand for a ten hour working day.[1]

Early union experience demonstrated that economic recession and depression curtailed union activity. Since the early 1830's reflected favorable economic conditions, substantial growth of unions and their bargaining power occured. Significantly in 1842, the application of a new labor relations doctrine held that unions were no longer an illegal conspiracy (Massachusetts Supreme Court Case, Commonwealth vs. Hunt). Despite this favorable legal environment, the remainder of the 1840's represented a period of union ineffectiveness.

The 1850's and 1860's were busy with the formation of national unions; the National Typographical Union being the first. At this time, national unions were formed from federations of local unions in the same craft, but from different areas. Union growth was stimulated by Civil War inflation in 1866 encouraging a new attempt to form strong central federations of American labor. The National Labor Union (NLU), a product of this effort, consisted of local unions, city centrals and national unions which displayed a political reformistic posture. Ultimately the NLU's position became so political that it opposed strikes in favor of political action. This proved to be its death blow.

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[1]Interestingly enough, this issue was directed at the federal government in support of federal employees.

The years of 1865 and 1896 were marked by a steady decline in the economy and ushered in one of the more violent labor periods. The strongest labor organization during this period was the Knights of Labor which opened membership to unskilled labor as well as skilled craftsmen.[2] This organization, which also opposed strikes, grew to a strength of 700,000 members by 1886. A combination of unfavorable national economic conditions and public sentiment over strikes caused the demise of this union by the early 1890's and marked a turning point in American labor history. Since that time no major labor union has emphasized political action and employee co-operation as its primary policy.

2. The Business-Unionism Period

By 1886, the American Federation of Labor (AFL) emerged as the dominating union comprising a strong central federation of craft unions.[3] It was led by a great labor figure, Sammuel Gompers, who laid down labor union operating principles which survived for more than 40 years [Ref. 1]. His principles, used by many unions of the period, included:

(1) affiliated national unions will be responsible for their own internal affairs and have exclusive jurisdiction in their area,

(2) the AFL will not support a political party,

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[2]This action represented the first initiative at organizing unskilled labor forces.

[3]The AFL grew from an earlier organization called the Federated Organization of Trades and Labor Unions organized in 1881.

(3) the AFL supports improvement in terms of employment through direct action with employers vice political legislation,

(4) establishment of a strong central organization with adequate financial support, and

(5) an attractive number of fringe benefit programs to offset periods of economic decline.

During this same period, unskilled coal miners organized the United Mine Workers (UMW) thus becoming the first successful industrial union.[4] Other efforts to form industrial unions during the period failed, notably in the steel industry where several bloody strikes occured. The utilization of strikes by unions remained unpopular with the public, as well as the courts, throughout this period resulting in many union defeats. A good example was the American Railway Union (ARU) which attempted to intervene in the Chicago Pullman car strike in 1894. A combination of legal injunctions issued by federal courts and enforced by federal troops crushed the strike and ultimately the ARU.

The period of 1897 - 1905 and 1914 - 1920 coincided with vigorous economic prosperity which supported rapid union growth. Refer to Table 1 for union growth data. The labor movement found itself on the defensive, however, since many employers felt unions had become too strong and the public viewed socialism in union organizations as a danger. Much

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[4]An industrial union is generally accepted as containing all wage earners within a given industry.

discontent and union radicalism prevailed, especially in an organization called the Industrial Workers of America (IWA) which challenged the nation's basic economic and social structures [Ref. 4]. Considerable legal activity occured with the Supreme Court upholding judgements against unions under the Sherman Anti-trust Act[5] and the legality of "yellow-dog" contracts[6] [Ref. 3]. Two significant and positive labor-management accomplishments during this period were the Clayton Act of 1914 and the Railway Labor Act of 1926. The Railway Labor Act was the first permanent federal guarantee of the right to bargain collectively. Employers now began to devote increasing attention to employee welfare often adding Personnel Administrators to their management organizations.

The Great Depression of 1929 initially crippled many unions, however, by the early 1930's public sentiment had become favorable to unions. Legislation, which favored unionism, was passed including the Norris-LaGuardia Act of 1932,[7] the National Industrial Recovery Act of 1933,[8] and the

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[5]The Danbury Hatter's decision of 1909 which applied the Sherman Antitrust Act, served to curb strikes affecting interstate commerce.

[6]These contracts conditioned employment on the basis that the employee would not join a union.

[7]This act limited federal courts from using injunctions in labor disputes and outlawed "yellow-dog" contracts.

[8]This act included a provision that employees should have the right to bargain collectively through their own chosen representatives.

Wagner Act of 1935[9] [Ref. 3]. The election of Franklin D. Roosevelt in 1932 marked the beginning of a long period of strong labor support by the federal government.

3. The Industrial-unionism Period

During the 1933-1939 period labor union membership was again increasing. However, significant internal conflict was developing within the AFL between "old guard" craft unions and newly formed industrial unions. The AFL Executive Council could not resolve the power struggle and ultimately craft unions split the union at the 1935 convention by voting to exclude their crafts from "federal charters" issued to newly formed national industrial unions. As a result, John L. Lewis led the industrial unions in forming a new organization, the Congress of Industrial Organizations (CIO), which was to remain independent of the AFL until 1955.

The CIO grew rapidly, reaching 3.7[10] million members by mid-1937. Efforts to organize other major industries such as the steel industry, met with bitter strikes. The issue of communism was also troubling the CIO since communistic elements had obtained limited leadership by the late 1930's. The advent of the Wagner Act, however, in 1937 assured the success of industrial union organizations. The decade of the 1940's brought recognition of an industry-wide steel workers

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[9]This Act replaced the NIRA found unconstitutional in 1935 and went well beyond the original act to include an employer unfair labor practice clause.

[10]This number exceeded the AFL membership strength of that same date by 300,000.

union and a maturing of labor-management relations. Following Pearl Harbor, President Roosevelt established the National War Labor Board (NWLB) with emergency powers to settle major work stoppages. This board was very active in a number of decisions related to union security, wage demands and wartime strikes. By the end of World War II, the 15 million worker labor movement had little hope of gaining further favorable public opinion or massive congressional support.

The immediate postwar period was one of substantial labor-management conflict due to unfavorable economic conditions. Further, communism in unions created ideological problems since party objectives diverged from union purposes. In 1948, the CIO found it necessary to expel several unions including the International Brotherhood of Teamsters and the United Electrical Workers. Many serious strikes occured throughout this period including the auto, steel, coal and railroad industries. Government actions through the National Wage Stabilization Board (NWSB)[11] were relatively ineffectual in controlling union actions. Ultimately, a combination of public opinion and congressional concern caused passage in 1947 of the Taft-Hartley Act which contained many strict controls over union activities.

The AFL and CIO were able to resolve their differences by 1954 and were reunited to form the AFL-CIO as the sole central federation of American labor in 1955. The most

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[11]The NWLB's authority expired in December 1945 and was replaced by the NWSB.

important issue facing the new organization was the problem of corruption which was underscored by U. S. Senate investigations[12] in 1957. Legislative response to the investigation included passage of the Welfare and Pension Plan Disclosure Act in 1958[13] and the Landrum Griffin Act in 1959.[13] These actions closed the Industrial-unionism Period. The reader is referred to Section C for a detailed description of the major legal milestones.

4. The Contemporary-unionism Period

In the early 1960's, serious problems plagued the labor movement. It was evident that growth of the AFL-CIO had remained static since the late 1950's and that private sector labor organization had reached its limits. Union attempts to interest white-collar workers had failed, organizing attempts in the South encountered hostile political and social atmosphere, and employers had become sophisticated in countering union activity. Therefore, by the mid-1960's, vigorous action to bolster union growth had occured which included:

(1) Organization and collective bargaining by federal employees,

(2) Initial organization of State and Municipal employees, and

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[12]The investigations were conducted by the Select Committee on Improper Activities in the Labor-Movement Field and was chaired by Sen. John McClellan.

[13]These acts were designed to curb corruption in the labor movement and require full financial disclosure.

(3) Success in organizing efforts among white-collar workers.

As a result of this counter action there was a dramatic upturn in union membership during the latter half of the 1960's. Refer to Table 2 for strength of selected National Unions. A growing concern by some leaders within the labor movement was its obligation to come to grips with broad social issues. This concern was apparently important enough for two national unions, the United Auto-Workers and the Teamsters Union, to organize the Alliance for Labor Action (ALA). The AFL-CIO decided to treat the ALA as a form of rival federation and expelled the UAW. The 1970's brought expanded organization of the public sector where currently the level of federal employee organization is approximately equal to that of the private sector in the percentage of available workforce organized. Presently, unrest and instability exists in the public sector with protest strikes being a routine occurrence in most cities. Many of these strikes involve white collar workers such as teachers and law enforcement officers. Most states have been forced to re-examine their laws regarding labor relations, and as a result, have become more lenient toward labor organization rights. Similarly, the Federal government has increased labor's collective bargaining rights. The unions, not satisfied with these actions, have initiated action in Congress to obtain legislative coverage in the federal sector.

C. MAJOR LEGAL MILESTONES IN AMERICAN UNIONISM

The following lists of legal decisions and/or legislative action had a major impact upon the American labor movement.

Date	Description
Early 1800's	PHILADELPHIA CORDWAINERS CASE, COMMONWEALTH VS. PULLIS. In this case, the central issue was whether the British common law concept of conspiracy applied to American employment relationships. The defendants were charged with forming an illegal combination. The jury's verdict finding the defendants guilty of an illegal conspiracy simultaneously established that unions per se were criminal conspiracies.
1842	MASSACHUSETTS SUPREME COURT CASE, COMMONWEALTH VS. HUNT. The defendants were seven leaders of a Boston craft union who had been found guilty of criminal conspiracy by the court of original jurisdiction. In reviewing the case, the Supreme Court Justice refused to find anything illegal about the combination. In his analysis, the Justice applied labor law in terms of the "means-end" doctrine.[14]

[14]The "means-end" doctrine was based on the principle that if the objective sought by an act is legal, then the act itself must be legal.

Date	Description
1890	SHERMAN ANTITRUST ACT was originally passed to curb big business monopolistic practices and its application to control organized labor was unintentional. However, in the DANBURY HATTERS CASE of 1908, it was used against an AFL union to recover triple damages resulting from primary and secondary boycott action. The U. S. Supreme Court found in favor of the factory owner; thus rendering the strike, labor's only effective economic weapon, illegal in cases of interstate commerce.
1914	CLAYTON ACT was hailed by unions as labor's Magna Carta and relief from Sherman Antitrust Act considerations. Several Supreme Court cases, DUPLEX VS DEERING 1921 and the CORONADO CASES of 1922, served to indicate that the courts had not recognized the CLAYTON ACT as a protection against antitrust considerations as Congress had intended.
1926	RAILWAY LABOR ACT was the first Federal or State legislative guarantee of worker's rights to organize and bargain collectively. It also represented the first occasion that the U. S. Supreme Court upheld Congress in extending legal protection to unions.
1932	NORRIS-LaGUARDIA FEDERAL ANTI-INJUNCTION ACT met a need for collective bargaining in modern

Date	Description
	society and implemented legislative action to meet this need. The fundamental purpose of the Act was to constrain sharply the power of the courts to intervene in labor disputes. Since injunctions represented the instrument by which courts entered labor-management disputes, this act served to check their prerogative to issue labor injunctions.
1933	NATIONAL INDUSTRIAL RECOVERY ACT (NIRA) contained the first general endorsement of the right of workers to organize and bargain collectively. The AFL opposed this legislation, however, on the grounds that the federal government was undertaking regulation of private industry. The NIRA was declared unconstitutional by the U. S. Supreme Court in 1935.
1935	NATIONAL LABOR RELATIONS ACT (NLRA), also called WAGNER ACT, was passed in 1935 to replace the NIRA. It contained all the pro-labor features of the NIRA and remained in effect until 1947. The three features important to labor were: a. individual workers had a right to organize and bargain collectively with their employer,

Date	Description
	b. employer guidelines were established to insure protection of employee rights, and c. the National Labor Relations Board (NLRB) was created to enforce the law.
1941	NATIONAL WAR LABOR BOARD (NWLB) was established immediately following Pearl Harbor and empowered with Presidential wartime emergency powers. The purpose of the NWLB was to resolve labor-management issues during World War II in order to minimize wartime labor outages. The NWLB was replaced by the National Wage Stabilization Board at the close of the war.
1946	NATIONAL WAGE STABILIZATION BOARD (NWSB) replaced the NWLB and was responsible for reviewing collective bargaining settlements in cases where employers sought compensating price increases. The postwar period was plagued with bitter strikes and the NWLB was judged ineffectual.
1947	TAFT-HARTLEY ACT or LABOR MANAGEMENT RELATIONS ACT (LMRA) replaced the Wagner Act of 1935 (NLRA) and was opposed by labor on the grounds that it favored management. It restructured collective bargaining by restoring the balance of power in certain industries in which unions had become too strong. Specifically, it

Date	Description
	imposed limits on union security rights, required unions to bargain in good faith, limited the strike as an economic weapon and insured individual workers' rights to refrain from organizing.
1958/1959	LANDRUM-GRIFFIN ACT or LABOR MANAGEMENT REPORTING AND DISCLOSURE ACT AND WELFARE AND PENSION PLAN DISCLOSURE ACT were the result of Congressional hearings that disclosed corrupt practices in unions. This legislation was directed at correcting the standards for democratic procedure and internal management of funds within the labor movement.
1964	CIVIL RIGHTS ACT is the most recent legislation affecting unions and is intended to promote equality of work opportunity for all workers in the labor movement.

Table 1

Reported Membership of National and International Unions, Selected Dates, 1897 - 1972

Year	x1000 of Members	Year	x1000 of Members
1897	447	1948	14,300
1904	2,073	1952	15,900
1914	2,687	1956	17,490
1920	5,048	1958	16,786
1929	3,461	1960	18,117
1933	2,689	1964	17,976
1937	7,001	1968	20,258
1941	10,201	1970	20,752
1945	14,322	1972	20,894

Source: [Ref. 1] and [Ref. 22]

Table 2

Reported Membership in the Ten Largest National and International Unions, 1972

International Brotherhood of Teamsters	2,000,000
United Automobile Workers of America	1,400,000
United Steelworkers of America	945,000
International Brotherhood of Electrical Workers	779,000
United Brotherhood of Carpenters and Joiners	700,000
International Association of Machinists and Aerospace Workers	698,000
International Association of Retail Clerks	582,000
American Federation of State, County and Municipal Employees	545,000
International Union of North America Workers	475,000
Amalgamated Meat Cutters and Butcher Workmen of North Amercia	470,000
Total	8,594,000

Source: The World Almanac and Book of Facts 1975, Newspaper Enterprise Association, Inc., New York, Cleveland.

III. LABOR ORGANIZATION WITHIN THE FEDERAL SECTOR

A. INTRODUCTION

Unionism within the Federal sector has also experienced a unique growth pattern. Its historical underpinnings can be documented as early as the birth of American unionism itself. It gained strength in an era of political patronage and reform reaching relative maturity in an age of high technology and sophisticated organizations. To fully describe labor-management relations in the Federal sector under current regulations, examination of the evolution of the Federal labor movement is necessary.

This chapter will present a brief historical examination of Federal sector unionism in a tri-parte sequence which is felt to fit the major eras of recognition of the movement. While the Federal sector labor movement embodies many policies which differentiate it from the private sector, the essential prerequisites enumerated in Chapter IIA remain equally applicable.

A great deal of the experience and momentum achieved by Federal service unionism during the decade of the 1960's has been transferred to State, County and Municipal governments where new standards of union conduct and collective bargaining are being evolved for application in public sector unionism.

B. A BRIEF HISTORICAL SKETCH OF FEDERAL SERVICE UNIONISM

Federal service unionism has been divided into three distinct periods which are felt to recognize the major eras of the movement. These include: (1) an Era of Growth without Recognition, (2) the Era of Executive Order 10988, and (3) the Era of Executive Order 11491 (as amended). As in the previous chapter, these divisions are designed to assist the reader in classifying the important periods of the movement.

1. An Era of Growth without Recognition

Unionization of civilian Federal government employees began at the Philadelphia Naval Shipyard in the early 1800's.[14] This period of union growth without full formal recognition was to last approximately 150 years.

The first strike by Federal employees occurred in 1835 at the Navy Yard, Washington, D. C., when civilian employees went on strike for shorter work days. Most of the Federal employee unions of this period were fraternal, social or craft organizations designed to provide members some measure of protection against the evils of the political patronage system. Under patronage, the Federal civil service employee had little job security since all employee positions were available for reassignment upon inauguration of a new presidential administration. The strongest union movements during

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[14]The reader will recall that private sector trade unionism had its earliest roots in Philadelphia also.

this period occurred among employees of the Navy Department and the Postal Service Department. The issues of the period emphasized abolishment of the patronage system, establishment of improved pay standards, and reduction of the workday [Ref. 5].

An aspect of the Federal service unionism movement has been its emphasis on lobbying before Congress for favorable action vice use of collective bargaining techniques. This emphasis resulted from the government manager's early opposition to organized labor. Union lobbies did enjoy some measure of success and gained Federal legislation in 1861 on a wage law for Navy Department workmen which provided a basis for the current Federal wage board system. Again in 1868, as a result of union influence, Congress enacted legislation establishing an eight-hour workday[15] and the Federal government became the first employer on record to recognize an eight-hour workday. Certainly, the most significant piece of legislation to be enacted during this period was the Pendleton Act of 1883 which abolished the patronage system and adopted instead a civil service system based on individual merit.

Management attempted to restrict the growing influence of Federal employee unions with Congress toward the end of the eighteenth century. In 1895, the Postmaster General issued the first in a series of government "gag" orders forbidding

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[15]This legislation excluded postal workers who obtained an eight-hour workday privilege at a later date through the lobbying process.

employees from influencing Congress. This was followed by President Theodore Roosevelt's executive order which forbid officers and employees of the United States from influencing Congress in their own interest. This policy was carried on by President Taft in 1909 who issued even stronger "gag" orders which incensed Congress and the unions [Ref. 5]. The government's policy ultimately led to the passage in 1912 of the LLOYD-LA FOLLETTE ACT guaranteeing all Federal employees the right to organize and petition Congress. This act has been called the most important legislation ever passed concerning the rights of Federal employees, and while originally directed at postal workers, is held to apply to all Federal employees. One important limitation of the Act, the prohibition against the use of strikes, remains in force today in current Federal labor-management relations.

Following the passage of the Lloyd-LaFollette Act, Federal unionism grew steadily. In 1917, with Congress attempting to pass legislation increasing Federal employee work hours, a new union was formed comprised mainly of white collar employees. This new organization, the National Federation of Federal Employees (NFFE),[16] was unique since it was the only union of Federal employees whose membership was not restricted to a specific trade or occupational specialty. The NFFE grew rapidly exceeding 50 thousand members by 1919,

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[16]The NFFE was organized by and affiliated with the AFL; it originally consisted of 64 union locals.

thus becoming the largest single Federal employee union. The public attitude toward unions became more positive during the 1920's and 1930's. It was believed that public welfare would be advanced by the existance of strong independent unions to bargain collectively with big business management. The NORRIS-LaGUARDIA ACT of 1932 and WAGNER ACT (NLRA) of 1935 serve as positive reminders of this change in attitude, although Federal employees were specifically excluded from these Acts.[17] In spite of this exclusion, Federal employee unions continued to gain influence through their growth in membership and Congressional lobbying efforts. In 1921, the Post Office Department became the first Federal agency to negotiate formally with unions. In 1931, the NFFE separated from the AFL over jurisdictional problems and the few NFFE locals desiring to remain with the AFL formed a new federation called the American Federation of Government Employees (AFGE).

The years of World War II were relatively uneventful with Federal employee emphasis placed upon the war effort. Following World War II, however, passage of the Taft-Hartley Act (LMRA) in 1947 which excluded Federal employees from all its provisions except for a strong anti-strike policy, served to re-kindle the flames of Federal civil service unionism.[18] During the 1950's a number of bitter union-management clashes

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[17]President F. D. Roosevelt himself believed that government employees should not have the same rights for negotiating and collective bargaining as workers in private industry.

[18]Presidents Truman and Eisenhower both held similar beliefs to President Roosevelt regarding Federal civilian service unionism.

occurred, especially with the Postal Service, which encouraged critics of the government position on collective bargaining to become increasingly vocal [Ref. 3]. The critics contended that the Federal government lacked positive formal guidance or policy to guide relations between employee organizations and management.[19] It was 1958 when the Federal Personnel Manual (FPM) finally established policy whereby government officials were encouraged to consider employee organization views. Unions continued to press hard throughout this period for legislation which would recognize Federal unions and collective bargaining. Congress, in fact, made several attempts to pass legislation in the form of the RHODES-JOHNSON BILL, but was never successful.[20]

Upon his election in 1961,[21] President Kennedy immediately took action to reaffirm the rights of all employees to participate in union activities stating that such action contributed to the efficient conduct of public business. Further,

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[19]This accusation, of course, was entirely true; furthermore, it was obvious to private sector unions that the most viable union expansion potential existed in the Federal sector making formal organizational processes mandatory.

[20]It is interesting to note that Congress was never able to agree on any legislation and consequently was not influential in guiding Federal labor management relations. During the period 1949 to 1961, over 80 bills were introduced all of which failed passage.

[21]The margin of victory was one-fourth of one percent which labor contended was due solely to their support of President Kennedy. Further as a Senator, Kennedy had strongly supported the Rhodes-Johnson Bill which clearly indicated to labor that his election as President would be extremely favorable to their cause.

he appointed a Task Force on Employee-Management Relations in the Federal Service which served to usher in a new era of Federal service unionism and conclude the first 150 years of labor influence upon Federal employee-management relations. The dominant characteristics of this period have been the continued reluctance of government management to accept Federal unionism and collective bargaining as compatible with "public service" and the determined use by Federal unions of political action through Congressional lobbying [Ref. 10].

2. The Era of Executive Order 10988

The decade of the 1960's has often been called the era of public employee unionism. While membership in private sector unionism was declining, membership in Federal service unions more than doubled from one-half million members in 1960 to 1.1 million members in 1968 [Ref. 5]. This section will examine the cause of growth in Federal sector unionism and describe the structure of employee-management relations which existed in the Federal government during the period.

The President's Task Force on Employee Management Relations was composed of highly influencial members of the Kennedy Administration including Arthur Goldberg, Secretary of Labor and Chairman; Robert McNamara, Secretary of Defense; J. Edward Day, Post Master General; David Bell, Director, Bureau of Budget; John Macy, Chairman, U. S. Civil Service Commission; and Theodore Sorenson, Special Consul to the President. The Task Force conducted extensive hearing and made detailed studies presenting its findings to the President in November 1961. In summary, the major findings were:

a. That the Federal government lacked formal policy to guide collective dealings with employee organizations,

b. That 33% of all Federal employees belonged to employee organizations,[22]

c. That Federal sector employee-management relations could not be directly similar to that of the private sector,

d. That Federal employee organizations could provide a more significant and positive contribution to the conduct of government business.

The results of the Task Force study were provided in a report entitled A Policy for Employee-Management Cooperation in the Federal Service, Report of the President's Task Force [Ref. 6]. The major recommendations included:

a. That Federal employees should have the right to join employee organizations and further these organizations were entitled to Federal government recognition,

b. That Federal employees also had the right to refrain from joining such organizations,

c. That management must be impartial to and refrain from interference with the formation and operation of employee organizations,

d. That management should be willing to participate in collective bargaining with employee organizations with regard to working conditions and personnel policies when consistent with applicable Federal laws and the merit system principles.

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[22]This equaled the national proportion of membership in private sector unionism at that time.

President Kennedy accepted the report in full and, on 17 January 1962, issued Executive Order 10988, Employee-Management Cooperation in the Federal Service,[23] thus establishing for the first time in Federal government history a positive government-wide policy concerning employee-management relations. The full text of E. O. 10988 will not be repeated in this paper, however, a brief summary of the major provisions is provided. The first section contained an employee's right to join or refrain from joining employee organizations. Further, management is directed to remain impartial to employee organizing activities and is prohibited from participating in such activities. The second section reaffirmed provisions of the Taft-Hartley Act by excluding recognition of organizations which assert the right to strike against the government. E. O. 10988 established three levels of union recognition (informal, formal, and exclusive) depending on the extent of employee membership within the employee organization. In the case of exclusive recognition, mandatory collective bargaining between labor and management representatives was required. E. O. 10988 further established that primary responsibility for program administration rested with the head of each governmental agency as well as the right and obligation to unilaterally decide issues directly bearing on efficiency and methods of agency operations. Specifically, matters bearing on agency mission, budget, organization and personnel assignment were excluded from bargaining.

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[23]Hereafter referred to as E. O. 10988.

The reception of E. O. 10988 was unanimously positive by government management and labor alike. Labor organizations thought it to be the "Magna Carta" of Federal sector unionism serving to erase the contradictory policy which withheld collective bargaining rights from Federal employees while granting them to private sector employees. Following issuance of E. O. 10988, Federal unions grew rapidly with white collar employees becoming the core of the growth trend.[24] Also contributing to this condition was the increasing trend in government employment (including State and municipal employees) which characterized the decade. By 1968, more than 40% of all Federal employees were members of unions. Of these, nearly 42% were white collar workers, a far greater ratio than existed in private industry.[25] Additional statistics regarding Federal sector union growth are presented in Table 3.

The major factors creating stimulus for growth included the permissive environment of E. O. 10988, the general leveling-off of private sector union growth, and a restive attitude among Federal white-collar workers who were becoming increasingly concerned about their work status in competition with private industry. The rapid increases in the number of Federal service

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[24]This condition resulted from a shift in the national labor profile during the 1960's when white collar workers began to outnumber blue collar workers. By 1970 there were 10 million more white collar workers than blue collar workers in the national work force.

[25]The generally accepted white collar ratio in private industry during this period was 5 - 20% depending on the industry.

jobs available as well as proliferation of high technology coupled to create an aura of impersonality in Federal service management which troubled government employees. Application of E. O. 10988 was not without difficulties; and a number of refinements were introduced during the middle 1960's. In May 1963, the President issued Standards of Conduct for Employee Organizations and a Code of Fair Labor Practices as required by Section 13 of the order [Ref. 7]. On 1 January 1964, the Comptroller General authorized Federal agencies to offer voluntary withholding of organizational dues from employee salaries. In July 1965, the Civil Service Commission authorized run-off elections to determine exclusive recognition paralleling policy established in the private sector by the Taft-Hartley Act. Additionally, during 1965, the Civil Service Commission issued instructions revising procedures for settlement of impasses and the handling of arbitration.

While the refinements to E. O. 10988 were extremely beneficial, labor leaders became increasingly dissatisfied. Of particular concern to labor was the fact that the order was not being uniformly implemented, that management held too much power regarding appropriate bargaining units and negotiating matters, that obtaining exclusive recognition was unreasonably difficult, and finally the INFORMAL/FORMAL recognition status levels were of questionable value. In summary, by the end of the 1960's, labor's position was that while E. O. 10988 was a step in the right direction; a more formalized and progressive program was needed for Federal service employee-management relations.

In meeting the need for change, President Johnson appointed the Wirtz Committee in 1967 to evaluate the first five years of experience with E. O. 10988. The Committee completed its work by early 1968, but the final report never reached the President.[26] Also during this period, Congress was conducting hearings which would establish labor-management relations by law, but again it was unable to act. By 1969 it had become clear to all that changes had to be made if labor relations in the Federal sector was to progress.

3. The Era of Executive Order 11491 (As Amended)

The need for revision of E. O. 10988 was brought to President Nixon's attention shortly after his inauguration in 1969. He immediately appointed a study group under Civil Service Commission Chairman Robert Hampton to include the Secretary of Labor, Secretary of Defense, Postmaster General, and the Director of the Bureau of the Budget. The Committee reported thirteen specific recommendations[27] impacting upon the following major topics:

a. A central body to administer the program and make final decisions on policy and disputes,

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[26]This situation was probably due to compelling problems associated with the Vietnamese War and the waning of the Johnson administration.

[27]The recommendations of the Hampton Committee were found to be very similar to those developed by the Wirtz Committee in 1968.

b. Revision of the multiple forms of unit recognition and provision of improved criteria for determining appropriate units,

c. Clarification of the definition and status of supervisors,

d. Enlargement of the scope of negotiable matters,

e. Utilization of third-party processes for resolving disputes not related to policy, and

f. Broadening of union financial reporting and disclosure.

On the basis of these recommendations, President Nixon issued Executive Order 11491, Labor-Management Relations in the Federal Service[28] on 29 October 1969 to become effective 1 January 1970. The stated objectives of the new E. O. 11491 were to provide an efficient and orderly system for labor-management relations in the Federal government thereby obtaining improved operations. Major changes from the previous order were the establishment of program administration under a Federal Labor Relations Council (FLRC),[29] the creation of a Federal Service Impasse Panel (FSIP),[30] the assignment to the Assistant Secretary of Labor for Labor-Management Relations (ASL/MR) responsibility for supervising organizing activities

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[28]Hereafter referred to as E. O. 11491.

[29]The FLRC held strong powers and was closely akin to the NLRB of private sector unionism. It is composed of Chairman Civil Service Commission, Secretary of Labor, and Director OMB.

[30]The FSIP is composed of three impartial citizens outside government and has the authority to settle impasses and direct arbitration.

and compliance with provisions of the order, the prohibition of supervisors from serving as officers or representing employee organizations,[31] elimination of INFORMAL and FORMAL recognition, simplification of exclusive recognition procedures, and finally national consultation rights were established permitting unions to deal on an agency-wide basis under appropriate conditions.

While E. O. 11491 was considered substantially stronger for labor than E. O. 10988, labor leaders felt more needed to be done. Government management, however, was generally satisfied with the changes feeling that new maturity had been introduced by the use of the FLRC and FSIP [Ref. 5]. Also introduction of a third-party process into labor relations significantly changed the role of managers in the Federal service since their actions were now subject to close appraisal when they affected employees and their unions. In accordance with procedures established by the President, an assessment of operations under the order was made one year later by the FLRC. After conducting public hearings and completing an extensive study, the Council concluded that certain revisions were necessary and submitted recommended changes to the President in June 1971 [Ref. 8].

President Nixon adopted the changes and issued Executive Order 11616,[32] Amending Executive Order No. 11491,

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[31]Associations of strictly supervisors and management personnel were authorized under E. O. 11491.

[32]Hereafter referred to as E. O. 11616.

Relating to Labor-Management Relations in the Federal Service on 26 August 1971 to become effective 24 November 1971. E. O. 11616 served only as an amending order to E. O. 11491 which remains as the basis for the current Federal labor-management relations program. A complete copy of E. O. 11491 (as amended) is contained in Appendix A. The purpose of E. O. 11616 was to strengthen collective bargaining, broaden third party involvement and to clarify status of exclusive representation. Changes considered to be of major significance included:

a. OMB and CSC directed to increase monitoring of execution of the program by all agencies,

b. Prohibition of recognition of employee organizations asserting the right to strike against the government was deleted from E. O. 11491,[33] and

c. Refinement in grievance procedures, definition of unfair labor practices and arbitration processes.

Union growth under E. O. 11491 has continued to be steady although not at the same high levels as the decade of the 1960's. By 1971, unions represented a solid majority of all Federal employees. Postal workers were nearly 100 percent organized, but no longer fell under the jurisdiction of E. O. 11491 due to the semi-independent nature of the new Postal Service organization. The AFGE continued to be the largest union of Federal service employees. See Table 4 for Federal union exclusive recognition data.

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[33]This prohibition, however, remains in effect through the Wagner and Taft-Hartley Acts.

The current labor-management relations environment is one of greater balance of power between labor and management representatives. Employees still have the right to participate (or refrain from participating) in unions of their choice. While the scope of collective bargaining is growing, the Federal personnel merit system is being maintained. Strikes and other forms of work stoppage are not permitted under the regulations. The reader is referred to Section C for a detailed description of the major legal milestones.

Events that have recently occurred under this environment together with specific Department of Defense and United States Navy labor-management relations problems is the subject of the next chapter. At this point, the reader possesses a reasonable historical background of both American private sector and Federal sector unionism for application to today's labor-management relations problems.

C. MAJOR LEGAL MILESTONES IN FEDERAL SERVICE UNIONISM

The following list of legal decisions and/or legislative action had a major impact upon the Federal service labor movement.

Date	Description
1861	Federal employee lobbying gained Congressional legislation for a Navy Department wage law providing the basis for the current wage board system.

Date	Description
1868	Federal employee lobbying gained Congressional legislation establishing an eight-hour workday; postal workers were excluded until a later date. Government management responded by cutting pay a proportionate share to lost hours.
1883	Congress enacted the Pendleton Act or as commonly known, the Civil Service Act, which abolished the patronage system establishing instead a merit system under which Congress held the authority to regulate Federal employment terms and conditons.
1895 - 1909	During this period, the Executive Department led by Presidents Roosevelt and Taft made a concentrated effort to control Federal employee communications and influence over Congress. An Executive Order issued in 1909 was so restrictive that it raised the ire of Congress causing that body to take up the question of Federal employee organization rights directly.
1912	The LLOYD-LaFOLLETTE ACT rejected Executive Department action to restrict Federal employee organization and communication with Congress. The Act became the basis for the principle that Federal employees had the right to join organizations which did not assert the right to strike. This privilege, however, was of limited value since procedures were not provided for effective collective bargaining with management.

Date	Description
1920	The Federal government negotiated its first written labor agreement with construction workers on the Alaskan railroad system.
1947	The Taft-Hartley Act, although generally excluding Federal employees from its provisions, did include a strong anti-strike policy applicable to government employees.
1949	The Classification Act contained a section permitting negotiation on certain aspects of wage rates after they have been determined by surveys. This act permitted some unions to influence the wage rates paid their members.
1958	The Federal Service Personnel Manual was amended to include guidance encouraging government managers to seek the views of employee organizations when establishing personnel policies.
1962	President Kennedy issued E. O. 10988 which established a basic structure for collective bargaining in the executive branch of the government.
1969	President Nixon issued E. O. 11491 which substantially modified E. O. 10988 and corrected many of the most seriously voiced labor objections.

Date	Description
1970	A new Coordinated Federal Wage System was created by the Civil Service Commission which used a wage policy committee concept including union membership. The procedure gives unions a more direct and definite role in determining wages.
1971	President Nixon issued E. O. 11616 which served to amend the basic program for Federal labor-management relations contained in E. O. 11491. The amendment further corrected deficiencies voiced by labor.

Table 3

Growth of Selected Unions in the Federal Government
1960 - 1972

Union	1960	1968	1972
American Federation of Government Employees (AFGE, AFL-CIO)	70,322	294,725	293,000
National Association of Letter Carriers (NALC, AFL-CIO)	138,000	210,000	220,000
United Federation of Postal Clerks (UFPC, AFL-CIO)	135,000	166,000	239,000
National Federation of Federal Employees (NFFE, independent)	53,000	95,000	100,000
National Postal Union (NPU, independent)	32,000	80,000	80,000
Total Membership (All Federal Unions)	535,277	1,100,087	1,369,000
Total Federal Civilian Employment	2,270,000	2,737,000	2,774,000

Source: Extracted from Bureau of Labor Statistics, 1968 and [Ref. 22].

TABLE 4

FEDERAL EMPLOYEES COVERED BY EXCLUSIVE RECOGNITION
1963 - 1973

	TYPE	1963	1965	1967	1969	1974
1.	Postal	490,900 (83%)	515,000 (87%)	609,000 (86%)	634,480 (87%)	SEE NOTE
2.	Blue Collar	121,000 (16%)	210,000 (33%)	339,000 (54%)	426,100 (72%)	(1) BELOW
3.	White Collar	74,000 (06%)	91,000 (07%)	291,000 (21%)	416,700 (29%)	

NOTE (1): 1974 Federal Service Organizational Statistics (excluding Postal Workers):

a. Federal Employees covered by Exclusive Recognition: 1,142,119 (57% of work force)

b. Federal Employees covered by Negotiated Agreements: 984,553 (86% of a. above)

c. Exclusive Recognition of Blue-Collar Workers is 405,700 employees and White-Collar Workers is 736,419 employees.

SOURCE: Extracted from Collective Bargaining in Federal Employment, 1970, and Federal Labor Relations Counsel bulletin FLMC 75-5, page 3-14-75.

IV. LABOR-MANAGEMENT RELATIONS IN THE DEPARTMENT OF DEFENSE

A. INTRODUCTION

The composition of the Department of Defense (DOD) work force greatly influences implementation of E. O. 11491 (as amended).[34] It includes a mixture of blue and white collar workers ranging from professionals and highly skilled technicians to laborers and janitors. The work force engages in every manner of services and tasks and is the largest single labor body in the United States. There are 2-3/4 million civilian employees in the Federal establishment of which 1-1/2 million work in the Department of Defense. At the present time, 65% of the 1-1/2 million DOD civilian employees are being represented by approximately 2000 bargaining (exclusive recognition) units of industrial, craft and independent unions. While many of these workers are career civil servants, a significant number are not directly covered under the civil service system. This includes employee positions in retail store exchanges, military clubs and messes, overseas dependent schools and recreation activities. All of these employees are included, however, under the Department of Defense Labor-Management Relations Program and provisions of E. O. 11491 (as amended).

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[34]This reference to E. O. 11491 relates to its modification following issuance of E. O. 11616 in 1971.

The heart of the DOD Labor-Management Relations Program is E. O. 11491 (as amended) which is structured to give formal recognition to employee unions followed by establishment of a bilateral labor-management relationship called COLLECTIVE BARGAINING. Since issuance of the original E. O. 10988 by President Kennedy in January 1962, a great deal of evolution of the program and its procedures has occurred. Several aspects of this evolutionary process have had substantial impact on the implementation of the program and will be briefly reviewed.

Implementation of E. O. 11491 (as amended) in late 1971, caused each agency of the Executive Department to lose a measure of its previous individual influence and utlimate decision authority in dispute matters [Ref. 9]. Substituted for each agency's scope of responsibility was a new centralized jurisdictional authority called the Assistant Secretary of Labor for Labor-Management Relations (ASLMR) who would decide matters of unit representation, elections, unfair labor practices and negotiability and arbitrability issues. Of concern to each agency was that impasses and deadlocks arising from negotiations could now be escalated to the Federal Mediation and Conciliation Service (FMCS) for third-party resolution. If the FMCS was unable to resolve the issue, it could be further escalated to a Federal Service Impasses Panel (FSIP) where settlement by binding arbitration could be directed [Ref. 10]. Finally, policy matters regarding implementation of the order and its interpretation was assigned to the newly formed Federal Labor Relations

Council (FLRC). The presence of these newly formed third-party authorities marked the beginning of a new sophistication in the labor-management relations process and a period of greater separation of powers between agencies and the resolving authority. Appendix B contains further details regarding third party authorities involved in E. O. 11491 (as amended).

B. DEPARTMENT OF DEFENSE GUIDANCE OF LABOR-MANAGEMENT RELATIONS

The DOD structured a directive incorporating the basic principles and criteria of E. O. 11491 (as amended) for application and implementation within the organizations under its control [Ref. 12]. This Directive was the result of coordinated action between the various DOD component organizations since it was essential that the specific parameters of the order be understood and implemented uniformly throughout the Department. The ability of DOD to implement the provisions of the order uniformly was particularly important since it employed more than one-half of all employees within the Federal service program [Ref. 11].

The official document for Department of Defense is DOD Directive 1426.1 dated 9 December 1971 which has as its stated objectives:

> . . . to establish policies and procedures applicable to labor-management relations within the Department of Defense in order to promote effective, equitable and uniform implementation within the Department of the policies, rights and responsibilities prescribed in Executive Order 11491 (as amended).

Generally, the provisions of the Directive are identical to those contained in the Executive Order, however, there are certain special exceptions. For instance, military departments which primarily perform intelligence, investigative, or security functions, such as the National Security Agency and Defense Intelligence Agency, are exempted from the directive because the Department of Defense has determined that application of such provisions would be inconsistent with national security. The General Policy and Responsibilities section of the Directive contained a number of policy pronouncements which provide insight into the Secretary of Defense's policies regarding operation of the Labor-Management Relations Program. First, maximum feasible delegation of authority to local managers in matters of personal policy and practice will be accomplished to ensure meaningful employee participation. Department managers must remain neutral while employees freely choose (or refrain from choosing) organized representation. If representation is chosen, then managers must take positive steps to establish a meaningful relationship with the organization selected. Labor-management relations staffs and activities within DOD components must be allocated resources and manpower sufficient to assure adequate professional expertise and training in this area. While managers have an obligation to negotiate meaningfully with employee organizations, they are not obligated to negotiate with respect to Department or any DOD component mission, budget, activity organization, total number of employees (or numbers, types, grades or assignment of employees), technology of performing work, or internal security practices.

Responsibility for the development of Department of Defense policy regarding labor-management relations and for the coordination of programs and activities throughout the Department is vested in the Assistant Secretary of Defense for Manpower and Reserve Affairs (ASD M/RA) who acts as the primary point of contact with the FLRC. Correspondence and other communications with the FLRC occurs only through the ASD M/RA. The Deputy Assistant Secretary of Defense for Civilian Personnel Policy is the designated ASD M/RA representative for actual working contacts with the Council. DOD Directive 1426.1 requires submission of various annual reports and information from which the ASD M/RA can evaluate status of the program.

In summary, the Secretary of Defense has implemented a coordinated Labor-Management Relations Program in the DOD. The program emphasizes decentralization in establishing relationships with employee organizations, but retains centralized control in official Department dealings with the Civil Service Commission and the FLRC. Staffing within the office of the Secretary of Defense has been kept to a minimum consistent with the Directive's intent. Through this process, personnel management in the DOD initially flows from the Secretary of Defense, through the heads of military departments, agencies, and intermediate commands to the individual installation commanders.

C. UNITED STATES NAVY IMPLEMENTATION OF LABOR-MANAGEMENT RELATIONS

In accordance with DOD policy to decentralize personnel management, the Department of the Navy established its organization and system for handling labor-management relations. As early as 1966, the Secretary of the Navy established the Office of Civilian Manpower Management (OCMM) within the office of the Secretary to serve the needs of headquarters officials throughout the Department in matters pertaining to personnel staff services. The basic Navy policy as stated in SECNAV Instruction 5430.78 of 25 July 1967 was:

> . . . Staff resources relative to civilian personnel administration shall be concentrated exclusively at two points; the locus of policy development (i.e., OCMM) and the locus of action (i.e., the employing activities).

As labor-management relations processes became increasingly sophisticated under E. O. 11491, it was necessary to further define the OCMM role by promulgating SECNAV NOTICE 12721 of 4 September 1970 which designated the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN M/RA) administrator of the Navy's Labor-Management Relations Program [Ref. 13]. In his memorandum of 4 September 1970, the ASN M/RA assigned the Director of Civilian Manpower Management to act for him in all proceedings and affairs under the SECNAV NOTICE.[35] Following this assignment, the focal point of the Labor-Management Relations Program within OCMM has been the Director, Labor-Employee Relations.

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[35]While the original SECNAV NOTICE pertained to employees paid from appropriated fund resources, OCMM responsibility has been extended to non-appropriated fund sources also.

Within the Navy, the vehicle for promulgating requirements of DOD Instruction 1426.1 of 9 December 1971 has been SECNAV NOTICE 12721 (Series) of which change transmittal 2 of 22 October 1973 is the most current. The Notice basically distributed changes to earlier applicable DOD Directives thus providing interim continuity pending permanent coverage by SECNAV and Civilian Manpower Management instructions. Since issuance of E. O. 11491 was closely followed by its amendment via E. O. 11616 and because a new DOD Directive 1426.1 was considered eminent, replacement of SECNAV NOTICE 12721 (Series) has not occurred.

OCMM, as the Navy's chief expert in labor relations affairs, has established an extremely competent capability in the Labor and Employee Relations staff within its Washington, D. C. offices. In addition, under the Director's guidance, expert labor relations specialists have been located in the regional OCMM offices (ROCMM's) to provide field commanders with direct support with labor-management relations problems beyond the capability of their own personnel specialists. The majority of the specialists within OCMM (and ROCMM's) are lawyers with significant experience in union and labor organization matters. The OCMM Labor and Employee Relations staff is organized to provide support on a "Command-wide" basis, i.e., labor specialists are assigned to represent System Commands or major Fleet Commands (such as NAVFACENGCOM or CINCLANTFLT) and handle all labor relations matters arising within activities under that command's purview. In this manner maximum continuity is exercised over common

labor-management problems. Every effort is made to resolve labor problems at the lowest possible level in accordance with DOD policies.

The Federal Labor Relations Program as it is applied in the Department of the Navy today has resulted in the establishment of some 600 different exclusive units and over 370 different contracts in bargaining. Tables 5 and 6 and Figure 1 provide current data regarding union growth within the Navy Department. The overwhelming number of exclusive units exist at the activity level. For the Navy, massive representation by organized labor creates challenges to Navy manpower management and the activity level Commander. It is to the activity Commanders that authority for personnel actions and operations have been delegated and it is upon them that primary responsibility rests for conducting negotiations and representing the Department. While no fixed pattern for negotiating strategy has been developed, the personnel management philosophy emphasizes line management responsibility, with the civilian personnel officer providing professional advice, assistance, coordination and training. Thus, in all Navy components, primary reliance is placed upon the ability of the local activity managers and representatives to operate within a general set of guidelines covered in agency publications and advisory bulletins.

The next section of this chapter discusses major problems facing our labor-management relations program today as a result of operations under the current concept.

D. CURRENT PROBLEMS AND ISSUES

Navy operation under E. O. 11491 (as amended) has brought to light a number of significant problems from the standpoint of management implementation. This section will briefly introduce problems considered most important. No attempt will be made to draw conclusions or make recommendations since the purpose is simply to familiarize the reader with current issues in labor-management relations.

Since 1965, exclusive recognition of units has rapidly expanded and today nearly 600 units exist within the Navy. While the existence of many units at various Naval activities is not a problem, the fragmentation of a single Naval activity into a number of individual exclusive bargaining units does create serious management and negotiating problems. As an example, the Naval Air Station in Alameda, California has eight bargaining units ranging in size from twenty employees to 500 employees. Co-located with the Naval Air Station is the Naval Air Rework Facility employing approximately 5000 employees represented by nine separate exclusive bargaining units. Unfortunately, these 17 exclusive bargaining units represent less than 20% of the entire Alameda complex employee population.

Statistics like these clearly indicate the serious management problem facing a Commander in negotiating and effectively administering bargaining contracts [Ref. 9].

A second major problem is the obvious conflict that exists between collective bargaining and the Civil Service merit system. When E. O. 10988 was first issued in 1962, it was

clearly emphasized that no conflict existed between this system of labor-management relations and the Civil Service merit system. As events have demonstrated, unions have not been satisfied with the limited scope of Federal sector bargaining authority and have been actively seeking an expanded scope of negotiability, including the provisions of the Civil Service merit system itself. Most unions today would prefer to negotiate without any of the restrictions resulting from civil service regulations. This particular problem requires attention at the highest levels of our Executive Branch to determine the amount of flexibility desired of our Civil Service merit system to meet the new labor challenge.[36]

Another problem, related to the scope of negotiability, is the strong pressure by labor unions for Congressional legislation to replace the Executive Order system. In fact, in Congress today, there are at least three serious legislative initiatives in Committee which would lead to laws replacing the current Executive Order concept. The preference for legislation by unions is based on private sector experience and the recent Post Office System reorganization which placed all its employees under the National Labor Relations Act thus opening the bargaining scope far beyond that which was originally permissable under E. O. 11491 (as amended). The implications of this action to management are impossible to predict, but all agree they would be monumental.

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[36]A fundamental question that must be considered is whether the Civil Service merit system is in fact a viable effective system worthy of retention.

The high degree of organization being achieved within the Department of Defense today has led unions to consolidate their representation by seeking higher forms of recognition. One of the largest unions in the DOD has already announced that it will seek "national exclusive" recognition with a service component in the near future. Through this method, unions can escalate negotiations to the Headquarter's level with the objective of increasing the scope of negotiability. The problem created for DOD and the component services by this action is the incompatibility of management organization structure where authority and responsibility are highly decentralized and concentrated at the activity level.

A final consideration that should not be over-looked is the "right to strike." While such a right is considered appropriate in the private sector, the granting of a similar right to public employees is being evaluated and tested currently throughout the country. Strong convictions are held by both labor and management regarding this issue and the decade of the 1970's is likely to have to face resolution of this problem. One OCMM official has stated:

> . . . how can anyone rationalize a right to strike by Defense employees whose services are intimately related to the military mission which alone justifies the jobs they hold? [Ref. 9].

These are penetrating and serious issues in the labor-management relations field which must be resolved. The manner of resolution as well as the pace is very likely to be established by events underway within the Federal Labor Relations Council and appropriate Congressional Committees at this very moment.

Table 5

Reported Unit Population - U. S. Navy Labor Unions
November 1973
(Total Navy Labor Force Population - 297,739)

Labor Organizations	No. of Exclusive Units	Unit Population	No. of Negotiated Agreements	No. of Employees Under Agreements
American Federation of Government Employees	245	73,201	163	56,765
Metal Trades Council	39	48,388	26	38,600
National Assoc. of Government Employees	65	16,162	42	12,957
International Assoc. of Machinists	34	14,288	24	9.985
National Federation of Federal Employees	40	8,939	15	4,916
All others	175	18,527	97	10,582
TOTALS	598	179,505	367	133,805

(cont.)

Table 5 (cont.)

Reported Organization of Non-Appropriated Fund Employees
November 1973
(Eligibles Only)

Navy Organizations	Total Employed	Total Employees in Exclusive Units	No. of Exclusive Units	No. of Negotiated Agreements
Naval Supply System Command	34,199	12,750	43	27
Bureau of Naval Personnel	17,236	977	11	7
Marine Corps	12,000	5,196	11	7
Office of Civilian Manpower Management	600	384	10	6
TOTALS	64,035	19,307	75	47

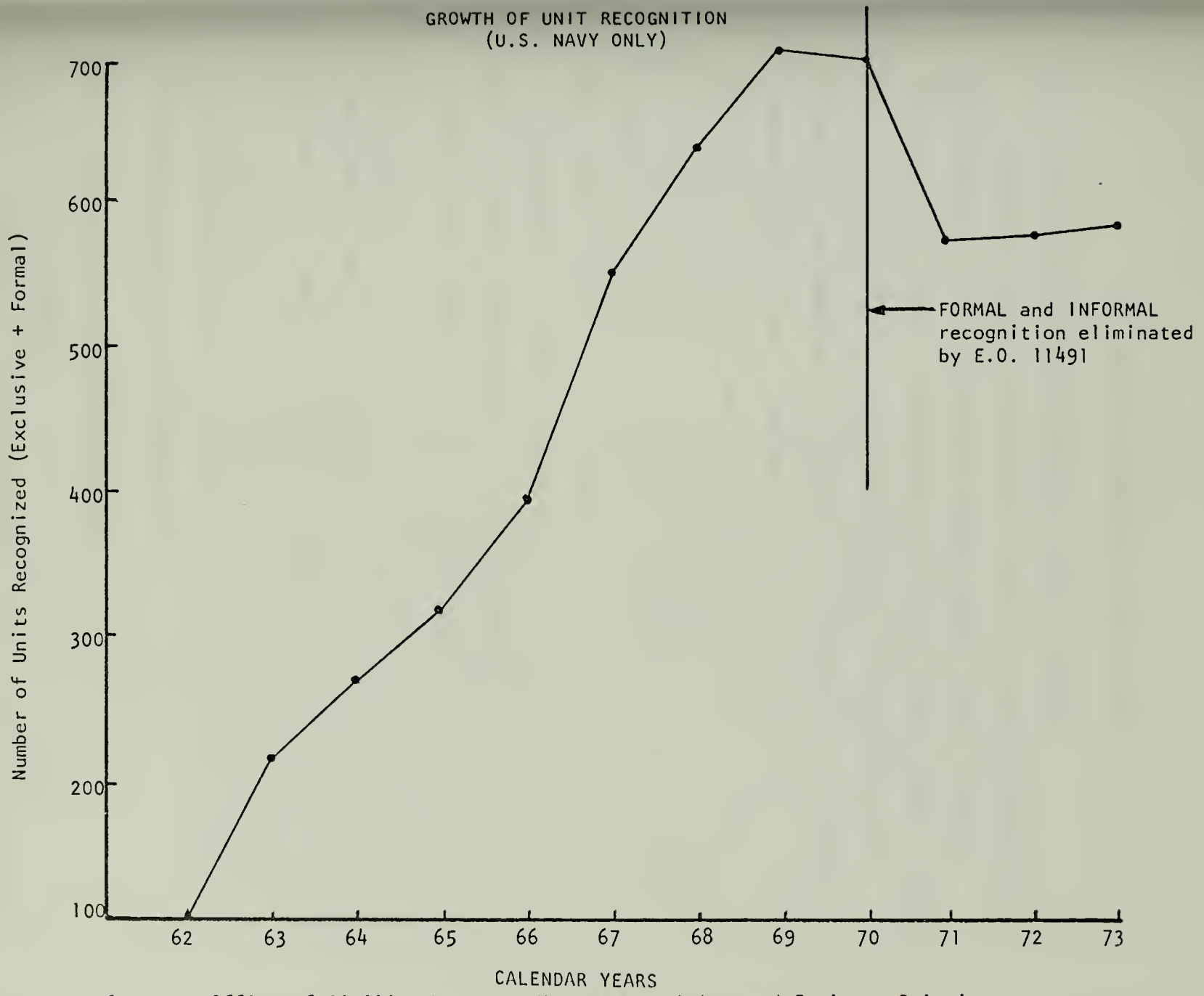
Source: Office of Civilian Manpower Management, Labor and Employee Relations

Table 6

Reported Organization by Major U.S. Navy Commands
November 1973
(Appropriated Fund Employees Only)

Major Navy Organizations	Total Employed	Total Employees in Exclusive Units	No. of Exclusive Units	No. of Negotiated Agreements
Naval Ships Systems Command	68,700	52,079	72	45
Naval Air Systems Command	43,900	26,050	89	61
Naval Ordnance Systems Command	27,980	19,245	37	33
Naval Supply Systems Command	22,100	18,263	85	54
Marine Corps	16,650	12,093	29	18
Naval Facilities Engineering Command	14,430	9,887	26	14
Medical Service Corps	5,980	5,332	20	4
All Others	97,999	36,556	240	138
TOTALS	297,739	179,505	598	367

Source: Office of Civilian Manpower Management, Labor and Employee Relations



Source: Office of Civilian Manpower Management, Labor and Employee Relations

V. LABOR-MANAGEMENT FIELD CASES

A. FIELD EXPERIENCE DEMONSTRATES MAJOR ISSUES

Current problems and issues in the Navy labor-management environment are most clearly visable when viewed through actual field cases. During thesis research the author visited the Regional Office of Civilian Manpower Management, San Francisco on numerous occasions for the purpose of studying several field cases of unique interest. This Chapter will discuss two case studies of particular learning interest. The form adopted for reporting the studies is a case summary containing a detailed description of actual events followed by a prediction of final outcome.

The two case studies chosen for inclusion in this thesis were selected because they provided insight into two particularly useful aspects of the activity commanders labor-management problem. The first study relates to appropriate unit representation following reorganization. The issue presented by the case clearly parallels fragmentation considerations. The second case study deals with the process of democratic determination through supervised elections of union representation and exclusive recognition.

B. APPROPRIATE UNIT REPRESENTATION

1. Case Summary

Following several years of study by Naval facilities management experts regarding improving the effectiveness and

efficiency of public works services to DOD activities in the eastern San Francisco Bay region, the Chief of Naval Operations directed, on 8 May 1974, the establishment of a new Naval Public Works Center (PWC) to be located in Oakland, California. The new PWC would consolidate all the public works type functions carried out by the Public Works offices at Oakland Naval Supply Center, Alameda Naval Air Station, Oakland Army Military Traffic Management and Terminal Service, Treasure Island Naval Station, Oakland Naval Regional Medical Center, and Hamilton Air Force Base. The new activity, officially designated as the Navy Public Works Center, San Francisco, would be responsible for all public works type services for the aforementioned activities as well as all other tenant naval activities within its region and would ultimately employ a workforce of predominantly blue-collar workers totaling 1180 employees. Staffing of the activity was accomplished, largely by transfer of employees from existing DOD activities.

At the time of commissioning of the PWC, approximately 952 of the 1070 employees being transferred from existing DOD activities were already represented by recognized bargaining units whose origins were as follows:

Activity	Employees		Unions
	Total Transferred	Represented by a Union	
1. Oakland Naval Supply Center	389	22	International Union of Operating Engineers #39, AFL-CIO
		339	American Federation of Government Employees #1533, AFL-CIO
	Subtotal	361	

Activity	Employees Total Transferred	Employees Represented by a Union	Union
2. Alameda Naval Air Station	304	29	International Union of Operating Engineers #39, AFL-CIO.
		26	United Association of the Plumbing & Pipe Fitting Industry #444, AFL-CIO.
		171	International Association of Machinists and Aerospace Workers #739, AFL-CIO.
		29	International Brotherhood of Electrical Workers #2297, AFL-CIO.
	Subtotal	255	
3. Oakland Army Military Traffic Management & Terminal Service	125	100	American Federation of Government Employees #1157, AFL-CIO.
4. Treasure Island Naval Station	164	158	American Federation of Government Employees #1113, AFL-CIO.
5. Oakland Naval Regional Medical Center	73	65	International Brotherhood of Electrical Workers #2297, AFL-CIO
6. Hamilton Air Force Base	15	13	National Association of Government Employees (Independent) #R12-69
FINAL TOTALS	1070	952 or 89% organized	

NOTE: Approximately 178 nonsupervisory employees transferring to the PWC have been unrepresented.

As can be seen from the above statistics, the Commander of the new PWC would be required to deal with seven different recognized exclusive union units in accomplishing assigned duties. Such a requirement, in the eyes of Navy management officials, was unreasonable especially since creation of the new activity would result in:

a. substantial physical relocation of employees and functions,

b. substantial combination and integration of all the employees from the former activities,

c. substantial change in varying terms and conditions of employment, and

d. a loss of the former separate identities and communities of interest with employees from the former activities.

Major modifications in employment conditions similar to those enumerated above, have been previously viewed by the Department of Labor as sufficient grounds for redetermination of appropriate unit representation. Therefore persuant to ASL/MR findings with regard to the U. S. Army Aviation Systems Command case 2A/SLMR 278; the U. S. Navy, in a statement of good faith doubt, submitted a petition on 10 June 1974 requesting redetermination of the appropriate bargaining unit since it appeared that none of the labor organizations continued to represent a majority of the employees in an appropriate unit.[37]

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[37] An appropriate unit is a group of employees with a clear and identifiable community of interest and which promotes effective dealings and efficiency of operations [Ref. 14].

The U. S. Navy requested the ASL/MR to direct a prompt and expeditious election to resolve matters concerning representation.

Following Navy petitioning action, the International Union of Operating Engineers #39 filed an official protest opposing Navy action to consolidate union representation. In addition, the Metal Trades Department of the AFL-CIO filed a petition in behalf of the machinists, electrical workers and plumbers and pipe fitters unions requesting an election and recognition as exclusive representative for PWC employees.

2. Present Status of Case

The Navy petition is currently in hearings at the United States Department of Labor, however, several unique aspects of the case already stand out for discussion purposes.

First, the reader has probably noted that all of the units involved, but one are affiliates of the AFL-CIO. Why, therefore, should there be any conflict at all; the AFL-CIO governing board could simply select the appropriate unit to represent all of the PWC employees. The reason this could not happen can be found in Chapter II,[38] where the early philosophy of union management was keystoned by Samual Compers who fostered independence of operations by individual National Unions making up the Federation. The AFL-CIO central body will therefore not settle local issues between its National Unions, except under the most extreme circumstances.

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[38]Page 10.

It should also be noted that the Navy consistently encouraged problem resolution outside the formal petition process. The Navy's only desire is to ease its labor-management problems by reducing the number of bargaining contracts it must administer; accordinly it encouraged a labor union "council"[39] concept whereby the seven separate units could combine into one for bargaining purposes but individually retain their separate identities. This approach has been unacceptable to the unions who have stated that it is too complicated and cumbersome for the unions' limited staffs.[40] Alternatively, the combined craft and trade unions of the AFL-CIO Metal Trades Department, by their petition, feel that the combined strength of 348 members may be sufficient to win an election. The smaller union units represented, of course, desire to retain the status quo to preserve their future existence (and incomes).

While the problem appears extremely complicated and confusing, it is probable that an election will be forced ultimately. Further, it is probable that the Hamilton AFB unit could retain its individual identity due to geographical remoteness from the PWC without seriously hampering management effectiveness. The combined strength of the AFGE local units

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[39]The Council would be formed from members of each separate unit and negotiate a single bargaining agreement for its membership.

[40]Probably the Unions see this approach as a management guise for road blocking effective union collective bargainism since the individual union units would be certain to have difficulty agreeing on most important issues.

(Locals #1113, #1157, and #1533) of 600 employees should give them a strong position in the election if they can resolve their individual differences.

C. THE EXCLUSIVE UNIT RECOGNITION PROCESS

1. Case Introduction

During the period of mid-1971 to mid-1974, the U. S. Naval Postgraduate School (USNPGSCOL), Monterey, California experienced a complete evolutionary cycle in the process of exclusive recognition by secret ballot. A number of unique events occurred during this period which makes an examination of the records and chronology of the process an extremely useful learning experience suitable for inclusion as a case study.

The case has been broken into three phases for discussion purposes which generally parallel the major steps involved in any exclusive recognition process under current procedural rules pursuant to E. O. 11491 (as amended). Prior to initiating action for exclusive recognition in 1971, a local union element of the National Federation of Federal Employees (NFFE) had gained FORMAL recognition under E. O. 10988 processes. The FORMAL recognition category, however, as the reader will recall, was eliminated when E. O. 11491 became effective in 1970. This resulted in the loss of representation by the local NFFE unit at the USNPGSCOL.

2. Unit Organization Phase

Formal recognition was granted to NFFE Local 1690 by the USNPGSCOL on 16 September 1969 and a cooperative

relationship established under Naval Postgraduate School Instruction 12721.3. Following issuance of E. O. 11491, however, the categories of FORMAL and INFORMAL union recognition were eliminated as ineffectual leaving the EXCLUSIVE recognition category as the sole remaining form of recognition. Therefore, on 23 October 1970, the USNPGSCOL notified NFFE Local 1690 that the grant of FORMAL recognition would be terminated on 30 April 1971 in accordance with FLRC regulations. The informing memorandum contained no other specific recommendations or guidance.

NFFE Local 1690 lost little time in determining its future course of action; issuing a letter to the USNPGSOL on 12 November 1971 requesting permission to conduct a 60-day organizational drive among activity employees. While the purpose of the drive was not specifically stated, it was obvious that EXCLUSIVE recognition was the intended final goal. The letter also advised that NFFE National Representatives would assist the local unit in this effort. Pursuant to the provisions of E. O. 11491, the USNPGSCOL granted permission for the drive, furnished listings of eligible employees, and made facilities available to NFFE National Representatives for publicizing the election. At this point the correct attitude for an Activity Commander must be one of cooperativeness and neutrality.

During the period of the drive flyers were displayed at authorized locations, informational meetings were conducted (outside working hours) and general promulgation of NFFE aims and gaols accomplished. By the end of the 60-day organizational

period, the NFFE National Representative had obtained sufficient demonstration of employee interest, via a signed petition, to permit filing a petition with the Department of Labor (San Francisco Area Administrator) on 10 December 1971 calling for an election for EXCLUSIVE recognition. For the purposes of petition action it was necessary for the NFFE to obtain the signatures of 30% of the eligible employees. This action was successfully completed on 10 December 1971.

3. Secret Balloting Phase

The secret balloting phase is initiated by the Department of Labor following receipt of the labor union petition. The required action includes notifying the naval activity named in the petition, appointing a Labor-Management Services Administration representative to handle the case, and preparing an Assistant Secretary for Labor-Management Relations "NOTICE TO EMPLOYEES" to be posted at the activity for a period of ten days. The ASL/MR notice serves to name all parties involved in the petition action.

The next step in this process requires union and naval activity representation to meet as soon as possible after expiration of the ten-day posting period to negotiate an appropriate unit[41] and the details for conduct of the secret ballot election. The Labor-Management Services Administration

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[41] By an "appropriate unit" is meant that agreement must be reached between union and activity representatives that all the eligible members of the proposed union unit have job inter-relationships which are related and can be adequately represented by the proposed union. In addition, the ASL/MR must approve the appropriate unit agreement as well as the election procedures before an election can be held.

will not become involved in this process unless agreement cannot be reached between the union and the naval activity. Considerable assistance is available from the ASL/MR, however, in the form of standard election agreements and procedural guides for elections [Ref. 15]. At this point, the major burden of effort lies with the naval activity personnel management specialists who must assure that a totally responsive attitude is reflected by the activity Commander. Normally, the election agreement will call for the election to occur approximately 30 days after expiration of the "NOTICE TO EMPLOYEES" during which time the union can further organize and publicize their position and the naval activity can arrange for the election details. The date for the USNPGSCOL election was set for 16 February 1972. During the period immediately preceeding the election, naval activity management representatives must be absolutely neutral and not take any action which could be construed as impeeding the election "due process." Union officials will be particularly alert to management actions throughout the election process.

On 16 February 1972 an election was conducted at the USNPGSCOL with a total voter turnout of 250 or approximately 62% of the eligible voters. The outcome was very close with 123 votes favoring NFFE Local 1690 representation and 127 votes cast against exclusive recognition of NFFE Local 1690. Since a simple majority of the votes cast determine the outcome, the USNPGSCOL employees denied exclusive representation by the union through the election process. Following an election which denies exclusive recognition, the union

has two avenues of action that it may take. It may file a petition claiming election interference by management and request that a new election be directed, or it may wait for one year and then request permission to again organize at the activity preliminary to a new election. Most unions will initiate both processes in an effort to obtain a new election as soon as possible. In the case of the USNPGSCOL election, the NFFE immediately filed a petition with the Department of Labor claiming management interference in the conduct of the election. The specific complaints alledged:

a. That a supervisor directed his employees to vote in a manner influencing their vote and the outcome of the election,

b. That a management representative had collected union publicity material from a non-work area (cafeteria) without prior discussion with union representatives which exerted unreasonable management control over union organization activities,

c. That management had promulgated a Command-wide memorandum just prior to the election containing language which coerced voters to vote "no" in the election,

d. That a management representative required removal of NFFE literature from certain bulletin boards just prior to the election which effected the outcome of the election, and

e. That an unknown number of employees were unable to obtain time off to exercise their right to vote, a violation under E. O. 11491.

4. Certification and Recognition Phase

The results of an election are not official until certified by the Department of Labor. Certification cannot be granted by the Department of Labor until any appeal or petition action has been resolved by proper authority. In the case of the USNPGSCOL election, a petition citing management interference was filed by the NFFE which requied an investigation by the Labor-Management Services Administration Area Administrator. Following the investigation, the Regional Administrator made a determination on 8 May 1972 that item (b) and item (d) of Section 3 above had merit and that management's actions were objectionable in that they effected the results of the election. The Regional Administrator, therefore, set aside the election and directed a rerun at the earliest agreeable date. Appeal action by the USNPGSCOL could be pursued through the office of the ASL/MR by requesting a review.

The USNPGSCOL did not appeal the decision and a rerun election was established for 28 June 1972 following negotiation of a new election agreement. The procedure for the rerun election was as described for the earlier election, however, the balloting outcome was surprising. The final tally showed 141 votes cast for NFFE representation, 141 votes cast against union exclusive recognition, and 1 challenged vote. The one challenged vote (the deciding vote as it turned out) was that of a fire fighter who at times assumed supervisory responsibilities. The legal issue then became whether this individual

was or was not a supervisor pursuant to the provisions of E. O. 11491.[42] In this case, the Regional Office of Civilian Manpower Management, San Francisco entered a statement in behalf of the U. S. Navy urging that the Regional Administrator sustain the challenge thereby agreeing that the employee was not eligible to vote. Following investigation by the Labor-Management Services Administration staff, the Regional Administrator on 15 August 1972 made a determination that the firefighter was not a supervisor and directed that his ballot be opened and counted. The U. S. Navy on 25 August 1972 determined to challenge the finding and requested review by the ASL/MR in accordance with established regulations. The ASL/MR review upheld the Regional Administrator's determination and the firefighter's vote was included in the ballot tally. The vote when opened was a vote against exclusive recognition which again denied union representation of USNPGSCOL employees. A certification of the election results to this effect was issued by the ASL/MR on 19 December 1972.

On 22 June 1973, the NFFE again submitted a letter to the USNPGSCOL requesting permission to conduct a 60-day organizational drive excluding the firefighters. The process followed was identical to that previously described and ultimately resulted in an NFFE petition for an activity-wide election. Again, union and activity representatives negotiated an election agreement and a NOTICE TO EMPLOYEES from the

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[42] As the reader will recall, supervisors are prohibited from union activity and were specifically excluded from the USNPGSCOL appropriate unit determination.

ASL/MR was posted for ten days pursuant to procedural requirements. The new election was conducted on 28 September 1973 and excluded from the appropriate unit professionals, firefighters, managers and supervisors, security personnel, casual hires and Federal personnel office employees working in other than clerical positions. In this election 230 votes (approximately 61% of eligible voters) were cast; 126 were cast in favor of representation by NFFE Local 1690 and 104 were cast against exclusive recognition. Therefore, after three elections and considerable administrative effort, exclusive union recognition was voted by USNPGSCOL employees. A Department of Labor certification of election results was issued on 9 October 1973 formalizing the balloting process and establishing NFFE Local 1690 as the activity wide exclusive representative of USNPGSCOL employees. This case study is not an uncommon experience of many Naval activities across the country and clearly demonstrates the persistence prevalent in the organizing process. Tables 7 and 8 provide U. S. Department of Labor statistics relative Federal sector voting trends in 1970.

Table 7

U.S. Department of Labor Fact Sheet - 1970
Federal Sector Representation Elections

1. 624 representation elections were supervised in 1970 by the Labor Management Services Administration.

2. 141,895 federal employees were eligible to vote in these elections.

3. 61% of the eligible voters actually voted.

4. The proportion of employees voting declined as the size of the voting unit increased.

5. In 92% of the elections, the employees chose union representation. The margin of valid votes cast in favor of union representation was 77%.

6. As the voting unit increased in size, the proportion of voters favoring union representation declined.

Source: U.S. Department of Labor, Labor Management Service Administration, 1971.

Table 8

U.S. Department of Labor - Federal Section Representation Elections
(Cases Closed January 1 to December 31, 1970)

No. of Eligible Employees	No. of Elections Total	Won By Unions	Total No. Eligible Voters	Employees Voting No.	%	Valid Ballots Total No.	%	Cost Tally for Union No.	%
99 or less	345	314	12,905	9,235	(72)	9,295	(100)	7,435	(80)
100 to 499	214	199	47,400	29,265	(62)	29,075	(100)	23,295	(80)
500 or more	65	59	81,590	48,591	(60)	48,355	(100)	36,400	(75)
Total All Elections	624	572	141,895	87,191	(61)	86,725	(100)	67,130	(77)

Source: U.S. Department of Labor, Labor Management Services Administration, 1971

VI. ANTICIPATED CHANGES TO EXECUTIVE ORDER 11491 (AS AMENDED)

A. CURRENT INITIATIVES FOR CHANGE

The author previously indicated that the next twelve months would produce significant changes in the Federal sector labor-management relations environment. This Chapter reviews the major forces that are at work which validate this conclusion. The forces for change have their locus in two separate areas of our Governmental process. First, the Federal Labor Relations Council (FLRC) has conducted extensive hearings since early 1974 regarding needed modifications to E. O. 11491 (as amended). The second force has been Congress which has similarly launched extensive hearings into labor-management relations within the Federal sector in response to strong labor union lobbying.

The following sections of this chapter present summary discussions of the major issues which appear to be of common interest in the hearings and supporting documentation. Effort has been made to fairly state the viewpoints held by the involved parties although it is a practical impossibility to second guess the attitude of individual members of the Congress. Since critical impact on Congressional attitude (and action) will result from Executive branch actions as represented by the FLRC hearings, this aspect will be discussed first in Section B. Section C will contain a summary of the Congressional Committee initiatives together with analysis comments.

B. AN ANALYSIS OF FEDERAL LABOR RELATIONS COUNCIL HEARINGS

Under E. O. 11491 (as amended), the Federal Labor Relations Council (FLRC) is established to administer and interpret the Executive Order including deciding major policy issues, prescribing regulations, and from time to time, reporting and making recommendations to the President. The FLRC is composed of the Chairman U. S. Civil Service Commission who acts as Chairman, the Secretary of Labor, and the Director of the Office of Management and Budget [Ref. 14].

In accordance with Presidential policies, the FLRC in December of 1973 issued an Information Announcement requesting position papers from interested parties regarding the effectiveness of operation of E. O. 11491 (as amended). In the Information Announcement certain issues known by the Council to be of major concern were listed for specific attention. Replies were provided during the early months of 1974 after which detailed hearingswere scheduled on 8 April 1974. Both labor and management representatives were invited to testify at the hearings. The analysis presented in the following paragraphs is based upon synthesis of selected position papers and information presented in the FLRC hearings.

Of major interest to the author was the position taken by the Department of Defense (DOD) regarding recommended changes to the existing Executive Order. The DOD has a sizeable stake in the matter since nearly one-half of all Federal civil service employees are within the Department. Furthermore, almost all of the nonappropriated fund employees covered by the Executive Order are within the DOD. In its position

statement, DOD clearly indicated that the Order was operating satisfactorily and that the crucial third party relationship was working [Ref. 16]. The DOD position emphasized that the Federal Labor-Management Relations Program was maturing and that the change process was one of evolution rather than revolution. DOD did concede, however, that some changes were desirable and provided a number of specific comments. In its comments, DOD provided 23 recommendations on 11 specific issue points in the FLRC Information Announcement [Ref. 17]. In reviewing these for discussion purposes the author selected those that appeared to be of common concern with union views as reflected in the hearings. Following is a brief summary of the selected recommendations:

1. No change to exclusion provisions of the Order is required except to clearly exclude coverage of non-U. S. citizens employed by Federal agencies outside the U. S.

2. No change should be made in the Executive Order with respect to security guard representation by separate union organizations.

3. No change should be made in the Executive Order with respect to the definition of supervisor.

4. The Executive Order should be amended to expressly prohibit unions granted exclusive recognition from representing supervisors and management officials in grievance and appeal proceedings.

5. The secret ballot election process should be retained as a prerequisite to exclusive recognition.

6. Unions and agencies should be permitted to combine existing units without an election when the resulting unit meets the criteria set forth in Section 10 (Exclusive recognition) of the Order.

7. The Executive Order policy should ensure that bargaining unit structure within an agency bears a reasonable relationship to the agency's internal management structure and that additional fragmentation be curtailed. Activity-wide or regional-wide units should be presumptively appropriate; cross-petitions for smaller units should be discouraged.

8. No change should be made in the Executive Order with respect to the role of agency regulations. Furthermore, current criteria for eligibility for national consultation rights are satisfactory and meaningful consultation does take place.

9. Section 11 (a) (Negotiation of agreements-meet and confer in good faith), 11 (b) (Negotiation of agreements-agency excluded negotiability matters), and 12 (b) (Basic provisions of agreements-retained management rights in accordance with applicable laws and regulations) should be revised to clarify the rights and obligations of agency management under the Order, including agency's obligation to negotiate at mid-contract changes.

10. Section 13 (Grievance and arbitration procedures) should be revised to clarify the meaning of the phrase "any other matters" and "matters for which statutory appeals procedures exist." Further, this Section should be revised to limit coverage of negotiated grievance procedures to those agreement provisions resulting from bilateral bargaining.

11. The parties should continue to be permitted to take a dispute over grievability or arbitrability directly to an arbitrator. However, DOD strongly recommends that a procedure be established whereby either party can refer matters where arbitrability is disputed to the FLRC for a ruling on the narrow issue of arbitrability alone.

12. Section 15 (Approval of agreements) should be revised to limit the pre-approval review process to a single organization level above that at which it was negotiated.

13. The FLRC should be the sole body authorized to rule on negotiability disputes arising under the Order. Furthermore, the Order should not be amended to provide for investigation and prosecution of unfair labor practice charges by the ASL/MR. The DOD feels strongly that prosecutory and adjudicatory functions must remain separated.

14. A uniform policy regarding dues deduction continuation during periods of contract negotiation, union loss of negotiation rights, and resolution of bargaining impasse should be established.

15. To avoid further fragmentation, careful attention should be devoted to questions of representation raised as a result of agency reorganization to ensure labor units will promote effective and efficient dealings.

16. Section 20, Use of official time, should be revised to restore the policy that union negotiators should not be on official time or as an alternative it should make "official time" a matter subject to negotiation by the parties.

During FLRC hearings, a majority of the Federal sector unions made their voice heard. It appears from the hearing records that the unions were less sophisticated in their approach, often neglecting to prepare written comments and in some cases being directly contradictive in their stated positions. The larger unions, however, such as AFL-CIO and NFFE were very specific and generally in agreement with respect to their requirements. In selecting the following list of union recommendations, priority has been granted to the stated positions of those unions active in the Department of Defense. Following is a brief summary of the selected recommendations.

1. There was a recurring complaint that the FLRC Information Announcement left out important items of union concern.

2. The unions should be allowed to merge units without agency approval or election. Furthermore, unit recognition should be authorized without election when a large showing of interest has been demonstrated.

3. The Order should be revised to broaden the scope of bargaining to include agency regulations or prohibit agency regulations from limiting bargaining scope. Unions should be allowed to bargain to statutory limits.

4. Section 11 (Negotiation of agreements) and Section 12 (Basic provisions of agreements) should be eliminated from the Order.

5. Section 13 (d) (Grievance and arbitration procedures-matters disputed as being under grievance procedure may be referred to ASL/MR) should be eliminated and the scope of grievance procedures enlarged.

6. Section 15 (Approval of agreements) should be eliminated. Approval of negotiated agreements should be concurrent with signing.

7. Unions must be relieved of the significant burden of investigation and litigation of unfair labor practice proceedings required under the Order.

8. Section 20 (Use of official time) should be revised to eliminate the restrictions which are presently detrimental to unions.

9. The Order should be revised to eliminate all management rights.

10. Agencies should be required to petition the FLRC for approval of exclusions under Section 3 vice being granted authority to make such decisions themselves. Furthermore, the exclusion of guards from unions should be eliminated from the order.

11. The exclusion of supervisors from union organizations should only occur when he is also a manager. The present exclusion definition is chaotic.

12. A union role in the decision making process related to contracting out of work must be incorporated in bargaining contracts.

13. Unions strongly agree that legislation is necessary to correct deficiencies in the Executive Order process and to provide statutory basis for union operations.

The above recommendation summary clearly demonstrates the divergent views of management and labor representatives. While other questions have been raised by both parties, they have

been relegated to lower priority based upon FLRC interest. The above questions appear to be those which are receiving greatest attention by the FLRC and obviously will be the areas of greatest change to the Executive Order when recommendations are fowarded to the President in the near future. Based on previous experience, it is probable that a middle-of-the-road position will be sought by the FLRC which balances the demands of both parties. Therefore, FLRC recommendations for modification to the Order will partially meet union requirements while simultaneously seeking a suitable alternative position to management demands. The process is not unlike arbitration itself with the FLRC representing the third party with binding authority.

C. CONGRESSIONAL INITIATIVES IN FEDERAL LABOR-MANAGEMENT RELATIONS

Congress has demonstrated increased interest in passing legislation directed toward Federal sector labor-management relations. Part of this renewed interest is due to the increased vigor of union lobbying activities in recent years coupled with a more receptive attitude on the part of the Congressional Committee involved. Most of the activity has been directed toward the House Subcommittee on Manpower and Civil Service where hearings have been recently conducted.

Currently there are three bills in Committee which could have tremendous impact on labor relations in the Federal sector. They are HR 13, HR 9784, and HR 10700 and are designed to replace the Federal Labor-Management Relations Program under E. O. 11491 (as amended). Prior to discussing

the Executive branch position with regard to these bills, it is appropriate to provide a brief description of their legislative content.

HR 13 and HR 9784 is applicable to all Federal sector organizations with exception of the Postal Service. In addition to supplanting present coverage under E. O. 11491, these bills would include the FBI, CIA and all merit system competitive positions within the Legislative and Judicial branches. The bills do not draw any distinction in the rank and file for those who audit or enforce rules and regulations. They would revoke exclusion on national security grounds and identify supervisors and managers on the basis of income levels, span of control and scope of impact. Both the bills establish "agency shops" which would require membership in labor unions or the payment of equivalent fees as a condition of employment. In addition, the bills would supersede all previous statutes and Executive Orders on the same subject which are found inconsistent. The bills also would preempt all higher-level rules and regulations, thereby expanding the scope of bargaining. The preemption would apply whenever agency regulations conflict with any of the terms now negotiated under some 3400 Federal sector agreements. HR 9784 includes the right to strike on a conditional basis.

HR 10700 was drafted with the assistance of the Henderson Committee and is far more comparable to E. O. 11491 (as amended). It is quite similar in language and coverage to the present Order, but does raise several major problems. The most serious of these is the provision for a Federal Labor Relations

Board composed of five agency and five labor representatives with an eleventh member, designated as Chairman, being chosen by the Civil Service Commission. This board would render determinations on all matters of centrally developed and centrally issued personnel policy that would have Government-wide application. This action would place responsibility for Government-wide personnel management in the hands of a Board, who, under the statute, would not be responsible to the President, the Civil Service Commission, or the Congress.

Having described the general content and approach of the various initiatives the following paragraphs will be devoted to an analysis of the Executive branch attitude as reflected by two major authorities, the Chairman of the Civil Service Commission and the Assistant Secretary of Defense for Manpower and Reserve Affairs.

Documentation and testimony presented by the DOD in May 1973 and again in May 1974 contained the major thrust that a sound and viable labor-management relations policy and program already existed and was working well. Further, the program was reviewed from time to time and changes made by the President in response to agency management and labor organization recommendations. Such an evolutionary process has served the public interest well by enabling changes to be made commensurate with Federal service needs and capacity. DOD stated strong opposition to all the proposed initiatives because they would serve to preclude further evolution of the current Federal program and because they contain many unsound and costly features which could have severe and adverse effects upon the

operations of the Federal Government and its ability to carryout assigned statutory responsibilities. HR 13 provides a virtually unlimited bargaining scope and undermines the civil service merit and job classification systems. While HR 10700 was significantly less objectionable in many respects than other legislation introduced in the 93rd Congress, none of the bills were evaluated as providing positive improvement to the present program. The DOD therefore took a strong stand objecting to HR 13, HR 9784 and HR 10700 at the 1974 Congressional hearings [Ref. 18 and 19].

The key Executive branch representative testifying at the hearings and recognized as most influential was Robert E. Hampton, Chairman of the U. S. Civil Service Commission. In his remarks before the House Subcommittee on Manpower and Civil Service he demonstrated comprehensive understanding of labor management problems in the Federal sector as well as recognition of the political forces at work. His presentation to Congress on 21 and 22 May 1974 followed the comprehensive FLRC hearings chaired by himself the preceeding month [Ref. 20]. Chairman Hampton, therefore, came before the committee possessing a very current and thorough understanding of Federal labor-management needs.

In his opening remarks, Chairman Hampton reviewed the basic principles and unique characteristics of the Federal Labor Relations Program. He particularly emphasized five fundamental issues that must be addressed in any basic change to the present program. These issues included:

1. The central authority . . . its role and authorities,
2. Supersedure . . . the impact of collective bargaining legislation on existing laws,
3. The scope of negotiations . . . as related to established bargaining-unit structure, non-availability of economic trade-offs, and Congressional authority,
4. The paramount need to protect merit principles and other expressions of public interest, and
5. The need to identify the "employer" for purposes of collective bargaining dealings.

Mr. Hampton stated that the essential statutory framework of Federal personnel policy are the merit principles themselves which provide the context within which collective bargaining must operate. What the Executive Order reserves to Federal managers, referred to as "management rights," are in actuality those responsibilities required of Government to manage in the public interest. A major strength of the program is its ability to make periodic adjustments to accommodate new conditions in an orderly and evolutionary process. The collective-bargaining process is at the heart of any labor-management program, and the U. S. Civil Service Commission has recently concluded studies which indicate that a range of bargaining achievements have been accomplished which are every bit as broad and important as private industry. Mr. Hampton then reviewed the statutory restrictions regarding why basic pay and economic supplements cannot be included in the bargaining relationship. Further, in answer to those favoring whosesale transplantment of private-sector labor law, the factors making the Federal environment so unique were also reviewed including:

1. Federal labor organizations enjoy close relationship to Congress,
2. Federal employee benefits are derived from a variety of statutory and regulatory policies and protections,
3. Federal management has adopted a positive attitude regarding union representation of its employees, and
4. Congress has outlawed the strike among Federal employees and substituted in its place other viable and effective statutory and regulatory systems.

On the subject of change, Mr. Hampton stated, "The Executive Order has been revised substantially three times; even now, we are headed toward still another revision as a result of our current review of the program." With regard to the proposed bills, all of them contain a common theme; they would make fundamental andfar-reaching alterations in the relationships between the Federal Government as an employer, its employees and their union representatives. Some of the basic and very real practical concerns contained in the provisions of these bills include:

1. Conflicts of interest and separation of powers especially with regard to coverage of FBI, CIA, and national security related civil service positions,
2. Payment of the equivalent of union dues and fees as a condition of Federal employment and job retention in conflict of merit system principles,
3. The prospect of strikes and other disruptions of Government operations,

4. Repeal of existing laws and Executive Orders which raise basic questions regarding the degree Congressional control over pay, benefits, and classification could be abrogated and

5. Preemption of higher-level rules and regulations creating a condition of extreme disparity in conditions of employment with gradual abandonment of equal pay for equal work protections.

In closing, Chairman Hampton stated that there is no demonstrated need for broad-gauged legislation in Federal sector labor relations. The Executive Order program is progressing in an orderly manner and dramatic results have been achieved. The Executive Order framework has shown itself to be flexible and responsive to employee interests, in facilitating union growth, and in improving employee-management communications.

Chairman Hampton's presentation was compelling and precise with respect to the Executive branch's position. The Statement for the Record submitted in support of his testimony was also very thorough and supportive [Ref. 21]. While the effects of his testimony on the members of Congress cannot be fully evaluated at this time, it is generally accepted that he was very persuasive and that Congress will take a "wait and see" attitude with respect to a new Executive Order. It is anticipated that a new Executive Order is eminent awaiting only submission of FLRC findings and recommendations to the President.

VII. CONCLUSIONS AND QUESTIONS REQUIRING FURTHER STUDY

A. CONCLUSIONS

1. The Influence of Private Sector American Unionism

Private sector unionism is affecting Federal sector unionism in an increasingly direct manner. This conclusion is validated by union recommendations for change from an Executive Order concept to a legislative basis of labor-management relations. Further, detailed recommendations for change offered by union representatives in the Federal Labor Relations Council hearings closely parallel private sector provisions.

2. The Application of Private Sector Organizational Capability

Organization and business management capability possessed by private sector unionism will continue to be directed at the Federal sector, but with emphasis upon organizing professional and white collar workers.

3. The Use of Political Action by Federal Sector Unionism

Federal sector unionism is considered distinctive because of its regular use of political action through Congress. It is postulated, however, that this is not a unique condition at all, but, in fact, closely parallels private sector union practice which favors direct action with employers. Since most employing conditions such as wage, retention, and fringe benefits are established under statutory law, Congress can be equated to an employer status for Federal service employees. It would be

plausible, therefore, for Federal unions to interact directly with Congress in a quasi employer-employee relationship.

4. The Continuing Evolution of E. O. 11491 (As Amended)

Forces of labor and management are sufficiently unstable at this time that a third evolution of E. O. 10988 should occur within the next six months. Furthermore, it is not anticipated that Congressional legislative action will develop in the near future for several important reasons:

a. Congress has never achieved a successful record of legislative action in this area;

b. A persuasive argument in favor of the Executive Order concept of Federal labor relations has been made, sufficient for Congress to adapt a "wait and see" attitude for the present;

c. Federal unions have not consolidated their influential power with sufficient vigor to convince Congress of the urgent need for legislation.

5. Executive Branch Expertise in Labor-Management Relations

Research and discussions with labor relations specialists indicates that the United States Navy has evolved a most sophisticated and experienced staff for dealing with labor-management relations problems. This staff, located within OCMM, being extremely experienced in private sector labor law as well as Federal sector provisions has demonstrated itself quite willing to exercise the legal machinery established under the Executive Order to test interpretations and establish labor relations precedence. Furthermore, this organization's legalistic and

sophisticated approach has resulted in some criticism by labor and Department of Labor representatives.

6. The Quality of Department of Defense Directives for Labor-Management Relations

The Department of Defense and United States Navy implementing directives for the Labor-Management Relations Program are deserving of revision. The U. S. Navy directive currently in effect is a SECNAV NOTICE which has been used for more than four years through the issuance of changes and extensions.

7. Continuance of the Civil Service Merit Promotion Program

A significant road-block to Federal unions in their achieving collective-bargaining goals is the statutory and regulatory requirements of the merit system. It is felt that this sytem will continue to come under strong attack necessitating increasingly regular and serious appraisal by the Executive branch.

8. Variance of Union Strategy

Organization of Federal service employees is reasonably complete. Unions can now be expected to turn major attention and effort to expanding the scope of bargaining. This interest by unions can be validated by the Congressional hearings and Federal Labor Relations Council hearings earlier this year.

9. A Very Serious United States Navy Labor Relations Problem

The extreme amount of fragmentation of union units within the Naval shore establishment represents a most serious management and administration problem facing activity Commanders

and labor relations specialists alike. This problem will become increasingly critical as the scope of bargaining opens and contract approvals occur at lower management levels.

B. QUESTIONS REQUIRING FURTHER STUDY

1. The Continuing Evolution of E. O. 1149 (As Amended)

The effect of a new Executive Order should be studied from the standpoint of the evolution of its provisions. Additional changes in the future are an obvious conclusion and study of the evolution of individual provisions should enable forecasting of the direction that labor-management relations issues are moving. With this knowledge decision makers can better prepare for the future.

2. Navy Department Expertise in Labor-Management Relations

An interesting study topic could result from an analysis of the variance of the three military services approach to labor-management relations. Further, the impact on the overall Federal Labor Relations Program due to the Navy's capability and readiness to test interpretation and develop precedence would contribute valuable information for management consideration.

3. Continuation of the Civil Service Merit Promotion System

Certainly one of the most valid questions is "where does the merit system go from here?" The unions are strongly seeking to increase the scope of collective bargaining at the cost of the merit system. It is not anticipated that they will be successful at this point, but the future may be different. An important study could be a serious appraisal

of the merit system and its viability to continue in the face of present day union requirements.

4. Unit Fragmentation Within the Naval Shore Establishment

It is recognized that extreme fragmentation at the activity level creates many management and administration problems. The Navy Department preference is to combine or consolidate these units in some manner which would ease the burden on the activity Commander. Individual union units are very reluctant to combine and it is questionable that they would be forced to do so under any Executive Order. An extremely important study would result from a careful examination of this problem and other alternatives that may be available to assist the activity Commander in more effectively managing and administering labor contracts.

APPENDIX A

I

EXECUTIVE ORDER 11491, LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE, AS AMENDED BY EXECUTIVE ORDER 11616 OF AUGUST 26, 1971.

Source: [Ref. 8]

EXECUTIVE ORDER 11491
AS AMENDED *

LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE

WHEREAS the public interest requires high standards of employee performance and the continual development and implementation of modern and progressive work practices to facilitate improved employee performance and efficiency; and

WHEREAS the well-being of employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment; and

WHEREAS the participation of employees should be improved through the maintenance of constructive and cooperative relationships between labor organizations and management officials; and

WHEREAS subject to law and the paramount requirements of public service, effective labor-management relations within the Federal service require a clear statement of the respective rights and obligations of labor organizations and agency management:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code, and as President of the United States, I hereby direct that the following policies shall govern officers and agencies of the executive branch of the Government in all dealings with Federal employees and organizations representing such employees.

GENERAL PROVISIONS

Section 1. *Policy.* (a) Each employee of the executive branch of the Federal Government has the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right. Except as otherwise expressly provided in this Order, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of its views to officials of the executive branch, the Congress, or other appropriate authority. The head of each agency shall take the action required to assure that employees in the agency are apprised of their rights under this section, and that no interference, restraint, coercion, or discrimination is practiced within his agency to encourage or discourage membership in a labor organization.

(b) Paragraph (a) of this section does not authorize participation in the management of a labor organization or acting as a representative of such an organization by a supervisor, except as provided in section 24 of this Order, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee.

Sec. 2. *Definitions.* When used in this Order, the term—

(a) "Agency" means an executive department, a Government corporation, and an independent establishment as defined in section 104 of title 5, United States Code, except the General Accounting Office;

* Additions made by Executive Order 11616 of August 26, 1971, are shown in boldface type.

(b) "Employee" means an employee of an agency and an employee of a nonappropriated fund instrumentality of the United States but does not include, for the purpose of exclusive recognition or national consultation rights, a supervisor, except as provided in section 24 of this Order;

(c) "Supervisor" means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to evaluate their performance, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(d) "Guard" means an employee assigned to enforce against employees and other persons rules to protect agency property or the safety of persons on agency premises, or to maintain law and order in areas or facilities under Government control;

(e) "Labor organization" means a lawful organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their employees; but does not include an organization which—

(1) consists of management officials or supervisors, except as provided in section 24 of this Order;

(2) assists or participates in a strike against the Government of the United States or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(3) advocates the overthrow of the constitutional form of government in the United States; or

(4) discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin;

(f) "Agency management" means the agency head and all management officials, supervisors, and other representatives of management having authority to act for the agency on any matters relating to the implementation of the agency labor-management relations program established under this Order;

(g) "Council" means the Federal Labor Relations Council established by this Order;

(h) "Panel" means the Federal Service Impasses Panel established by this Order; and

(i) "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations.

Sec. 3. *Application.* (a) This Order applies to all employees and agencies in the executive branch, except as provided in paragraphs (b), (c) and (d) of this section.

(b) This Order (except section 22) does not apply to—

(1) the Federal Bureau of Investigation;

(2) the Central Intelligence Agency;

(3) any other agency, or office, bureau, or entity within an agency, which has as a primary function intelligence, investigative, or security work, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with national security requirements and considerations; or

(4) any office, bureau or entity within an agency which has as a primary function investigation or audit of the conduct or work of officials or employees of the agency for the purpose of ensuring honesty and integrity in the discharge of their official duties, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with the internal security of the agency.

(c) The head of an agency may, in his sole judgment, suspend any provision of this Order (except section 22) with respect to any agency installation or activity located outside the United States, when he determines that this is necessary in the national interest, subject to the conditions he prescribes.

(d) Employees engaged in administering a labor-management relations law or this Order shall not be represented by a labor organization which also represents other groups of employees under the law or this Order, or which is affiliated directly or indirectly with an organization which represents such a group of employees.

ADMINISTRATION

Sec. 4. *Federal Labor Relations Council.* (a) There is hereby established the Federal Labor Relations Council, which consists of the Chairman of the Civil Service Commission, who shall be chairman of the Council, the Secretary of Labor, the Director of the Office of Management and Budget, and such other officials of the executive branch as the President may designate from time to time. The Civil Service Commission shall provide administrative support and services to the Council to the extent authorized by law.

(b) The Council shall administer and interpret this Order, decide major policy issues, prescribe regulations, and from time to time, report and make recommendations to the President.

(c) The Council may consider, subject to its regulations—

(1) appeals from decisions of the Assistant Secretary issued pursuant to section 6 of this Order;

(2) appeals on negotiability issues as provided in section 11(c) of this Order;

(3) exceptions to arbitration awards; and

(4) other matters it deems appropriate to assure the effectuation of the purposes of this Order.

Sec. 5. *Federal Service Impasses Panel.* (a) There is hereby established the Federal Service Impasses Panel as an agency within the Council. The Panel consists of at least three members appointed by the President, one of whom he designates as chairman. The Council shall provide the services and staff assistance needed by the Panel.

(b) The Panel may consider negotiation impasses as provided in section 17 of this Order and may take any action it considers necessary to settle an impasse.

(c) The Panel shall prescribe regulations needed to administer its function under this Order.

Sec. 6. *Assistant Secretary of Labor for Labor-Management Relations.* (a) The Assistant Secretary shall—

(1) decide questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for his consideration;

(2) supervise elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certify the results;

(3) decide questions as to the eligibility of labor organizations for national consultation rights under criteria prescribed by the Council;

(4) decide unfair labor practice complaints and alleged violations of the standards of conduct for labor organizations; and

(5) decide questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement.

(b) In any matters arising under paragraph (a) of this section, the Assistant Secretary may require an agency or a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as he considers appropriate to effectuate the policies of this Order.

(c) In performing the duties imposed on him by this section, the Assistant Secretary may request and use the services and assistance of employees of other agencies in accordance with section 1 of the Act of March 4, 1915, (38 Stat. 1084, as amended; 31 U.S.C. § 686).

(d) The Assistant Secretary shall prescribe regulations needed to administer his functions under this Order.

(e) If any matters arising under paragraph (a) of this section involve the Department of Labor, the duties of the Assistant Secretary described in paragraphs (a) and (b) of this section shall be performed by a member of the Civil Service Commission designated by the Chairman of the Commission.

RECOGNITION

Sec. 7. *Recognition in general.* (a) An agency shall accord exclusive recognition or national consultation rights at the request of a labor organization which meets the requirements for the recognition or consultation rights under this Order.

(b) A labor organization seeking recognition shall submit to the agency a roster of its officers and representatives, a copy of its constitution and by-laws, and a statement of its objectives.

(c) When recognition of a labor organization has been accorded, the recognition continues as long as the organization continues to meet the requirements of this Order applicable to that recognition, except that this section does not require an election to determine whether an organization should become, or continue to be recognized as, exclusive representative of the employees in any unit or subdivision thereof within 12 months after a prior valid election with respect to such unit.

(d) Recognition of a labor organization does not—

(1) preclude an employee, regardless of whether he is in a unit of exclusive recognition, from exercising grievance or appellate rights established by law or regulations; or from choosing his own representative in a grievance or appellate action, except when presenting a grievance under a negotiated procedure as provided in section 13;

(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude an agency from consulting or dealing with a religious, social, fraternal, professional or other lawful association, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members. Consultations and dealings under subparagraph (3) of this paragraph shall be so limited that they do not assume the character of formal consultation on matters of general employee-management policy, except as provided in paragraph (e) of this section, or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

(e) An agency shall establish a system for intra-management communication and consultation with its supervisors or associations of supervisors. These communications and consultations shall have as their purposes the improvement of agency operations, the improvement of working conditions of supervisors, the exchange of information, the improvement of managerial effectiveness, and the establishment of policies that best serve the public interest in accomplishing the mission of the agency.

(f) Informal recognition or formal recognition shall not be accorded.

Sec. 8. [Revoked.]

Sec. 9. *National consultation rights.* (a) An agency shall accord national consultation rights to a labor organization which qualifies under criteria established by the Federal Labor Relations Council as the representative of a substantial number of employees of the agency. National consultation rights shall not be accorded for any unit where a labor organization already holds exclusive recognition at the national level for that unit. The granting of national consultation rights does not preclude an agency from appropriate dealings at the national level with other organizations on matters affecting their members. An agency shall terminate national consultation rights when the labor organization ceases to qualify under the established criteria.

(b) When a labor organization has been accorded national consultation rights, the agency, through appropriate officials, shall notify representatives of the organization of proposed substantive changes in personnel policies that affect employees it represents and provide an opportunity for the organization to comment on the proposed changes. The labor organization may suggest changes in the agency's personnel policies and have its views carefully considered. It may confer in person at reasonable times, on request, with appropriate officials on personnel policy matters, and at all times present its views thereon in writing. An agency is not required to consult with a labor organization on any matter on which it would not be required to meet and confer if the organization were entitled to exclusive recognition.

(c) Questions as to the eligibility of labor organizations for national consultation rights may be referred to the Assistant Secretary for decision.

Sec. 10. *Exclusive recognition.* (a) An agency shall accord exclusive recognition to a labor organization when the organization has been selected, in a secret ballot election, by a majority of the employees in an appropriate unit as their representative.

(b) A unit may be established on a plant or installation, craft, functional, or other basis which will ensure a clear and identifiable community of interest among the employees concerned and will promote effective dealings and efficiency of agency operations. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes—

(1) any management official or supervisor, except as provided in section 24;

(2) an employee engaged in Federal personnel work in other than a purely clerical capacity;

(3) any guard together with other employees; or

(4) both professional and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit.

Questions as to the appropriate unit and related issues may be referred to the Assistant Secretary for decision.

(c) An agency shall not accord exclusive recognition to a labor organization as the representative of employees in a unit of guards if the organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

(d) All elections shall be conducted under the supervision of the Assistant Secretary, or persons designated by him, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or "no union." Elections may be held to determine whether—

(1) a labor organization should be recognized as the exclusive representative of employees in a unit;

(2) a labor organization should replace another labor organization as the exclusive representative; or

(3) a labor organization should cease to be the exclusive representative.

(e) When a labor organization has been accorded exclusive recognition, it is the exclusive representative of employees in the unit and is entitled to act for and to negotiate agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership. The labor organization shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

AGREEMENTS

Sec. 11. *Negotiation of agreements.* (a) An agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations, including policies set forth in the Federal Personnel Manual, published agency policies and regulations, a national or other controlling agreement at a higher level in the agency, and this Order. They may negotiate an agreement, or any question arising thereunder; determine appropriate techniques, consistent with section 17 of this Order, to assist in such negotiation; and execute a written agreement or memorandum of understanding.

(b) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall have due regard for the obligation imposed by paragraph (a) of this section. However, the obligation to meet and confer does not include matters with respect to the mission of an agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty; the technology of performing its work; or its internal security practices. This does not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

(c) If, in connection with negotiations, an issue develops as to whether a proposal is contrary to law, regulation, controlling agreement, or this Order and therefore not negotiable, it shall be resolved as follows:

(1) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under agency regulations;

(2) An issue other than as described in subparagraph (1) of this paragraph which arises at a local level may be referred by either party to the head of the agency for determination;

(3) An agency head's determination as to the interpretation of the agency's regulations with respect to a proposal is final;

(4) A labor organization may appeal to the Council for a decision when—

(i) it disagrees with an agency head's determination that a proposal would violate applicable law, regulation of appropriate authority outside the agency, or this Order, or

(ii) it believes that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or this Order.

Sec. 12. *Basic provisions of agreements.* Each agreement between an agency and a labor organization is subject to the following requirements—

(a) in the administration of all matters covered by the agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual; by published agency policies and

regulations in existence at the time the agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level;

(b) management officials of the agency retain the right, in accordance with applicable laws and regulations—

(1) to direct employees of the agency;

(2) to hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend, demote, discharge, or take other disciplinary action against employees;

(3) to relieve employees from duties because of lack of work or for other legitimate reasons;

(4) to maintain the efficiency of the Government operations entrusted to them;

(5) to determine the methods, means, and personnel by which such operations are to be conducted; and

(6) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency; and

(c) nothing in the agreement shall require an employee to become or to remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

The requirements of this section shall be expressly stated in the initial or basic agreement and apply to all supplemental, implementing, subsidiary, or informal agreements between the agency and the organization.

Sec. 13. *Grievance and arbitration procedures.* (a) An agreement between an agency and a labor organization shall provide a procedure, applicable only to the unit, for the consideration of grievances over the interpretation or application of the agreement. A negotiated grievance procedure may not cover any other matters, including matters for which statutory appeals procedures exist, and shall be the exclusive procedure available to the parties and the employees in the unit for resolving such grievances. However, any employee or group of employees in the unit may present such grievances to the agency and have them adjusted, without the intervention of the exclusive representative, as long as the adjustment is not inconsistent with the terms of the agreement and the exclusive representative has been given opportunity to be present at the adjustment.

(b) A negotiated procedure may provide for the arbitration of grievances over the interpretation or application of the agreement, but not over any other matters. Arbitration may be invoked only by the agency or the exclusive representative. Either party may file exceptions to an arbitrator's award with the Council, under regulations prescribed by the Council.

(c) Grievances initiated by an employee or group of employees in the unit on matters other than the interpretation or application of an existing agreement may be presented under any procedure available for the purpose.

(d) Questions that cannot be resolved by the parties as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, may be referred to the Assistant Secretary for decision.

(e) No agreement may be established, extended or renewed after the effective date of this Order which does not conform to this section. However, this section is not applicable to agreements entered into before the effective date of this Order.

Sec. 14. [Revoked.]

Sec. 15. *Approval of agreements.* An agreement with a labor organization as the exclusive

representative of employees in a unit is subject to the approval of the head of the agency or an official designated by him. An agreement shall be approved if it conforms to applicable laws, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation) and regulations of other appropriate authorities. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement, or, if none, under agency regulations.

NEGOTIATION DISPUTES AND IMPASSES

Sec. 16. *Negotiation disputes.* The Federal Mediation and Conciliation Service shall provide services and assistance to Federal agencies and labor organizations in the resolution of negotiation disputes. The Service shall determine under what circumstances and in what manner it shall proffer its services.

Sec. 17. *Negotiation impasses.* When voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or other third-party mediation, fail to resolve a negotiation impasse, either party may request the Federal Service Impasses Panel to consider the matter. The Panel, in its discretion and under the regulations it prescribes, may consider the matter and may recommend procedures to the parties for the resolution of the impasse or may settle the impasse by appropriate action. Arbitration or third-party fact finding with recommendation to assist in the resolution of an impasse may be used by the parties only when authorized or directed by the Panel.

CONDUCT OF LABOR ORGANIZATIONS AND MANAGEMENT

Sec. 18. *Standards of conduct for labor organizations.* (a) An agency shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in paragraph (b) of this section, an organization is not required to prove that it has the required freedom when it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participation in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in paragraph (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles when there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from or is subject to other sanction by a parent labor organization or federation of organizations with which it had been affiliated because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by paragraph (a) of this section; or

(2) the organization is in fact subject to influences that would preclude recognition under this Order.

(c) A labor organization which has or seeks recognition as a representative of employees under this Order shall file financial and other reports, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe the regulations needed to effectuate this section. These regulations shall conform generally to the principles applied to unions in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary.

Sec. 19. *Unfair labor practices.* (a) Agency management shall not —

(1) interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Order;

(2) encourage or discourage membership in a labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

(3) sponsor, control, or otherwise assist a labor organization, except that an agency may furnish customary and routine services and facilities under section 23 of this Order when consistent with the best interests of the agency, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;

(4) discipline or otherwise discriminate against an employee because he has filed a complaint or given testimony under this Order;

(5) refuse to accord appropriate recognition to a labor organization qualified for such recognition; or

(6) refuse to consult, confer, or negotiate with a labor organization as required by this Order.

(b) A labor organization shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of his rights assured by this Order;

(2) attempt to induce agency management to coerce an employee in the exercise of his rights under this Order;

(3) coerce, attempt to coerce, or discipline, fine, or take other economic sanction against a member of the organization as punishment or reprisal for, or for the purpose of hindering or impeding his work performance, his productivity, or the discharge of his duties owed as an officer or employee of the United States;

(4) call or engage in a strike, work stoppage, or slowdown; picket an agency in a labor-management dispute; or condone any such activity by failing to take affirmative action to prevent or stop it;

(5) discriminate against an employee with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin; or

(6) refuse to consult, confer, or negotiate with an agency as required by this Order.

(c) A labor organization which is accorded exclusive recognition shall not deny membership to any employee in the appropriate unit except for failure to meet reasonable occupational standards uniformly required for admission, or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This paragraph does not preclude a labor organization from enforcing discipline in accordance with procedures under its constitution or by-laws which conform to the requirements of this Order.

(d) Issues which can properly be raised under an appeals procedure may not be raised under this section. Issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under that procedure or the complaint procedure under this section, but not under both procedures. Appeals or grievance decisions shall not be con-

strued as unfair labor practice decisions under this Order nor as precedent for such decisions. All complaints under this section that cannot be resolved by the parties shall be filed with the Assistant Secretary.

MISCELLANEOUS PROVISIONS

Sec. 20. *Use of official time.* Solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except to the extent that the negotiating parties agree to other arrangements which may provide that the agency will either authorize official time for up to 40 hours or authorize up to one-half the time spent in negotiations during regular working hours, for a reasonable number of employees, which number normally shall not exceed the number of management representatives.

Sec. 21. *Allotment of dues.* (a) When a labor organization holds exclusive recognition, and the agency and the organization agree in writing to this course of action, an agency may deduct the regular and periodic dues of the organization from the pay of members of the organization in the unit of recognition who make a voluntary allotment for that purpose. Such an allotment is subject to the regulations of the Civil Service Commission, which shall include provision for the employee to revoke his authorization at stated six-month intervals. Such an allotment terminates when—

(1) the dues withholding agreement between the agency and the labor organization is terminated or ceases to be applicable to the employee; or

(2) the employee has been suspended or expelled from the labor organization.

(b) An agency may deduct the regular and periodic dues of an association of management officials or supervisors from the pay of members of the association who make a voluntary allotment for that purpose, when the agency and the association agree in writing to this course of action. Such an allotment is subject to the regulations of the Civil Service Commission.

Sec. 22. *Adverse action appeals.* The head of each agency, in accordance with the provisions of this Order and regulations prescribed by the Civil Service Commission, shall extend to all employees in the competitive civil service rights identical in adverse action cases to those provided preference eligibles under sections 7511-7512 of title 5 of the United States Code. Each employee in the competitive service shall have the right to appeal to the Civil Service Commission from an adverse decision of the administrative officer so acting, such appeal to be processed in an identical manner to that provided for appeals under section 7701 of title 5 of the United States Code. Any recommendation by the Civil Service Commission submitted to the head of an agency on the basis of an appeal by an employee in the competitive service shall be complied with by the head of the agency.

Sec. 23. *Agency implementation.* No later than April 1, 1970, each agency shall issue appropriate policies and regulations consistent with this Order for its implementation. This includes but is not limited to a clear statement of the rights of its employees under this Order; procedures with respect to recognition of labor organizations, determination of appropriate units, consultation and negotiation with labor organizations, approval of agreements, mediation, and impasse resolution; policies with respect to the use of agency facilities by labor organizations; and policies and practices regarding consultation with other organizations and associations and individual employees. Insofar as practicable, agencies shall consult with representatives of labor organizations in the formulation of these policies and regulations, other than those for the implementation of section 7(e) of this Order.

Sec. 24. *Savings clauses.* This Order does not preclude—

(1) the renewal or continuation of a lawful agreement between an agency and a representative of its employees entered into before the effective date of Executive Order No. 10988 (January 17, 1962); or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent the management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the date of this Order.

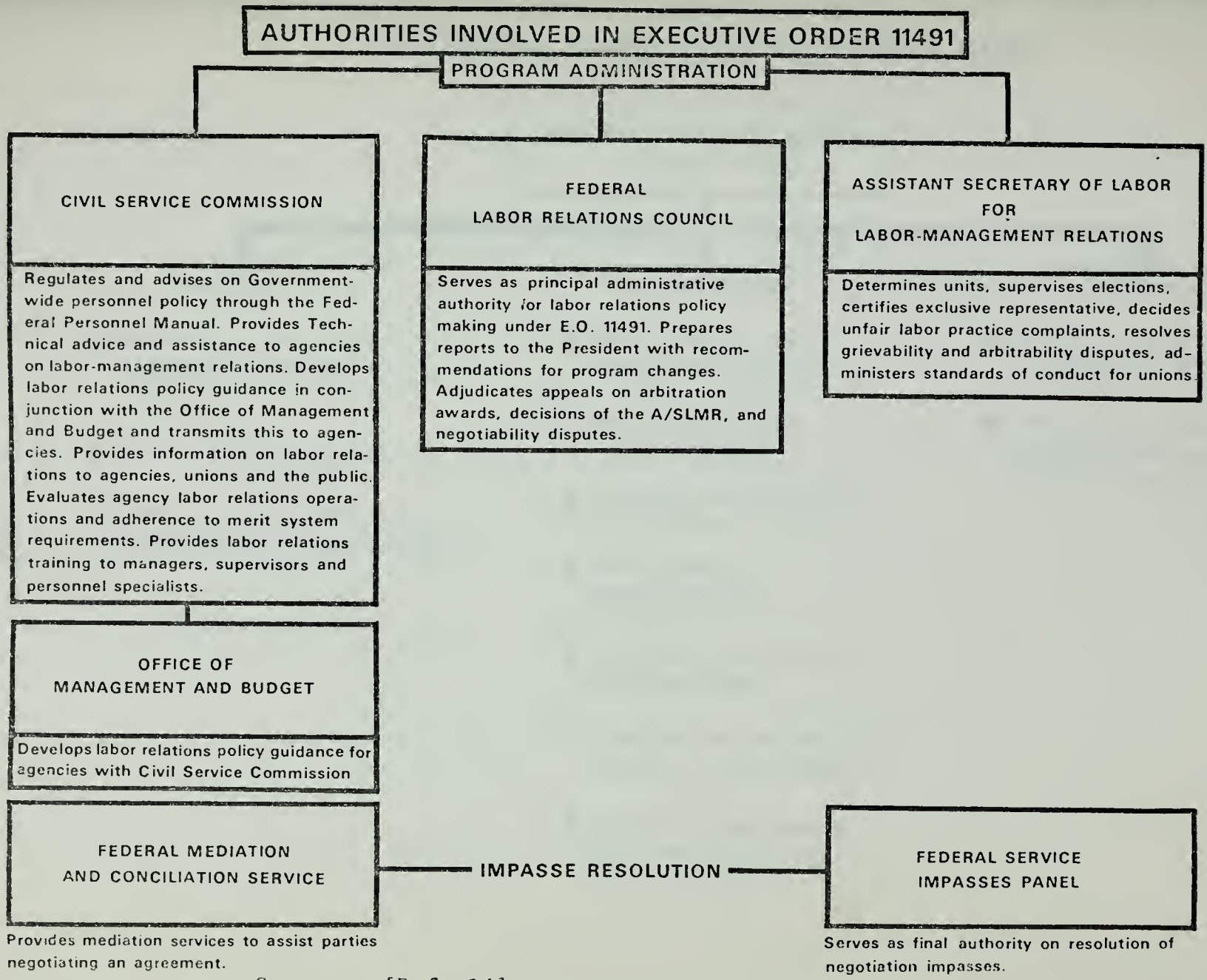
Sec. 25. *Guidance, training, review and information.* (a) The Civil Service Commission, in conjunction with the Office of Management and Budget, shall establish and maintain a program for the policy guidance of agencies on labor-management relations in the Federal service and periodically review the implementation of these policies. The Civil Service Commission shall continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; implement technical advice and information programs for the agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.

(b) The Department of Labor and the Civil Service Commission shall develop programs for the collection and dissemination of information appropriate to the needs of agencies, organizations and the public.

Sec. 26. *Effective date.* This Order is effective on January 1, 1970, except sections 7(f) and 8 which are effective immediately. Effective January 1, 1970, Executive Order No. 10988 and the President's Memorandum of May 21, 1963, entitled Standards of Conduct for Employee Organizations and Code of Fair Labor Practices are revoked.

RICHARD NIXON

THE WHITE HOUSE
October 29, 1969



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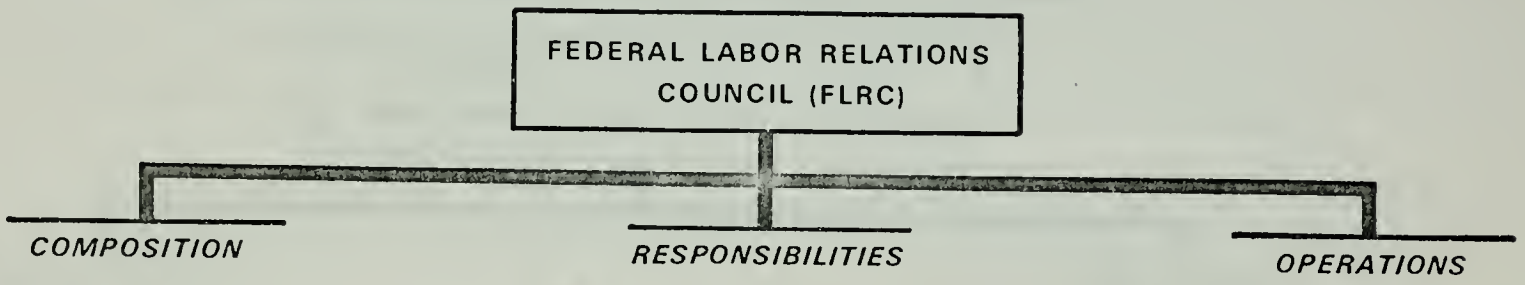
THE FEDERAL LABOR RELATIONS COUNCIL (FLRC)



COMPOSITION

- CHAIRMAN, U.S. CIVIL SERVICE COMMISSION CHAIRMAN
- SECRETARY OF LABOR
- DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

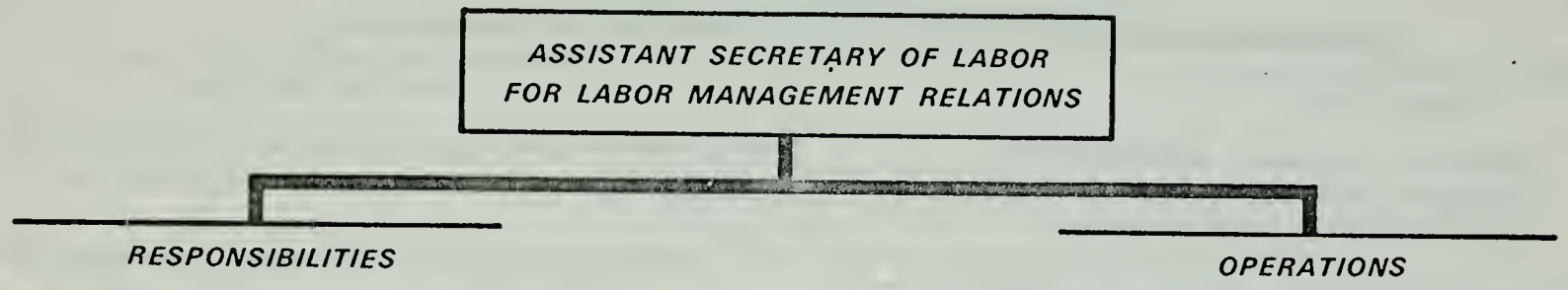
RESPONSIBILITIES

- ADMINISTERS AND INTERPRETS ORDER
- RESOLVES MAJOR POLICY ISSUES
- DECIDES NEGOTIABILITY QUESTIONS
- PRESCRIBES REGULATIONS
- CONSIDERS APPEALS FROM A/SLMR
- CONSIDERS ARBITRATION AWARD EXCEPTIONS
- REPORTS AND MAKES RECOMMENDATIONS TO THE PRESIDENT

OPERATIONS

- CHIEF ADMINISTRATIVE AUTHORITY UNDER ORDER
- RECEIVES HOUSEKEEPING SERVICES FROM CIVIL SERVICE COMMISION

ASSISTANT SECRETARY OF LABOR
FOR LABOR MANAGEMENT RELATIONS (A/SLMR)



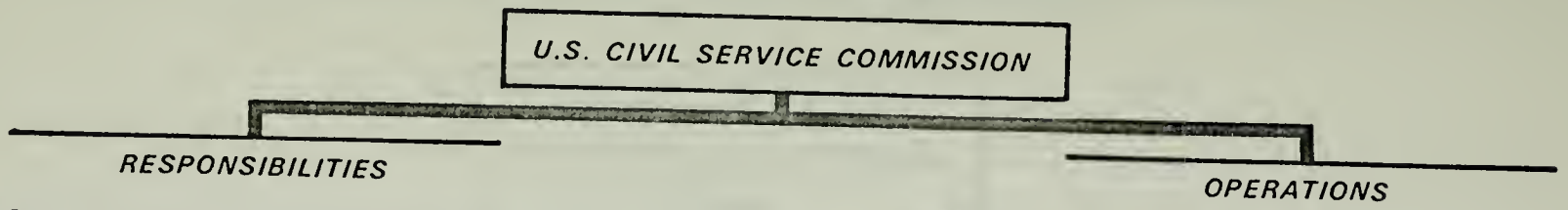
RESPONSIBILITIES

- PRESCRIBES NECESSARY REGULATIONS RELATING TO REPRESENTATION AND UNFAIR LABOR PRACTICE CASES
- DECIDES APPROPRIATE BARGAINING UNIT
- SUPERVISES SECRET BALLOT ELECTIONS
- CONSIDERS UNFAIR LABOR PRACTICE COMPLAINTS AND ISSUES CEASE AND DESIST ORDERS
- PRESCRIBES REGULATIONS CONCERNING CONDUCT OF LABOR ORGANIZATIONS, HEARS AND DECIDES COMPLAINTS ON VIOLATIONS
- DECIDES WHETHER GRIEVANCE DISPUTES ARE SUBJECT TO NEGOTIATED GRIEVANCE PROCEDURES AND DETERMINES THEIR ARBITRABILITY

OPERATIONS

- ISSUES DECISIONS ON MATTERS WITHIN JURISDICTION
- FUNCTIONS THROUGH HEADQUARTERS AND FIELD OFFICE STAFFS
- MAY REQUEST AND USE SERVICES AND ASSISTANCE OF OTHER AGENCIES

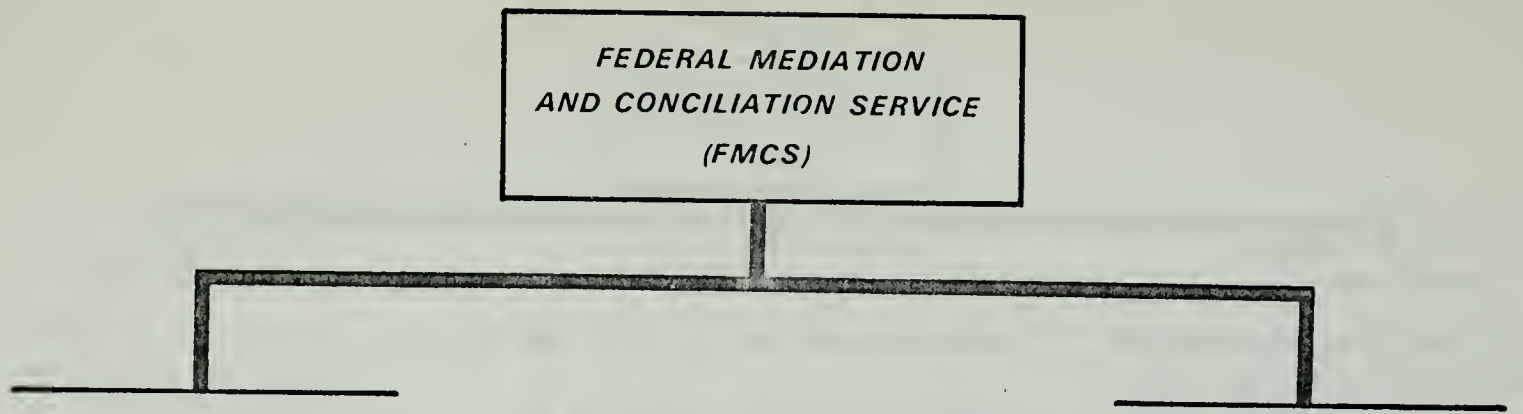
U.S. CIVIL SERVICE COMMISSION



- ASSURES COMPLIANCE WITH MERIT PRINCIPLES AND REVIEWS OPERATIONS OF THE PROGRAM
- REPORTS TO FEDERAL LABOR RELATIONS COUNCIL ON PROGRAM AND MAKES RECOMMENDATIONS FOR IMPROVEMENT
- SERVES AS CONSULTANT TO FEDERAL DEPARTMENTS AND AGENCIES IN IMPLEMENTING ORDER AND ITS OBJECTIVES
- VICE-CHAIRMAN ASSUMES ROLE AND DUTIES OF A/SLMR WHEN DEPT. OF LABOR IS A PARTY TO PROCEEDING
- JOINTLY WITH DEPT. OF LABOR, COLLECTS AND DISSEMINATES INFORMATION APPROPRIATE TO NEEDS OF AGENCIES, LABOR ORGANIZATIONS, OTHER ORGANIZATIONS, AND PUBLIC
- IN CONJUNCTION WITH OFFICE OF MANAGEMENT AND BUDGET, DEVELOPS POLICY GUIDANCE FOR AGENCIES

- PROVIDES GUIDANCE THROUGH FEDERAL PERSONNEL MANUAL ON PERSONNEL MANAGEMENT
- PROVIDES MANAGEMENT LABOR RELATIONS GUIDANCE AND ASSISTANCE
- PROVIDES MANAGEMENT LABOR RELATIONS TRAINING
- PROVIDES HOUSEKEEPING SUPPORT TO THE FEDERAL LABOR RELATIONS COUNCIL
- PROVIDES GENERAL INFORMATION ABOUT OPERATION AND IMPLEMENTATION OF EO 11491 TO ALL INTERESTED PERSONS AND PARTIES

FEDERAL MEDIATION AND COUNCILIATION SERVICE (FMCS)



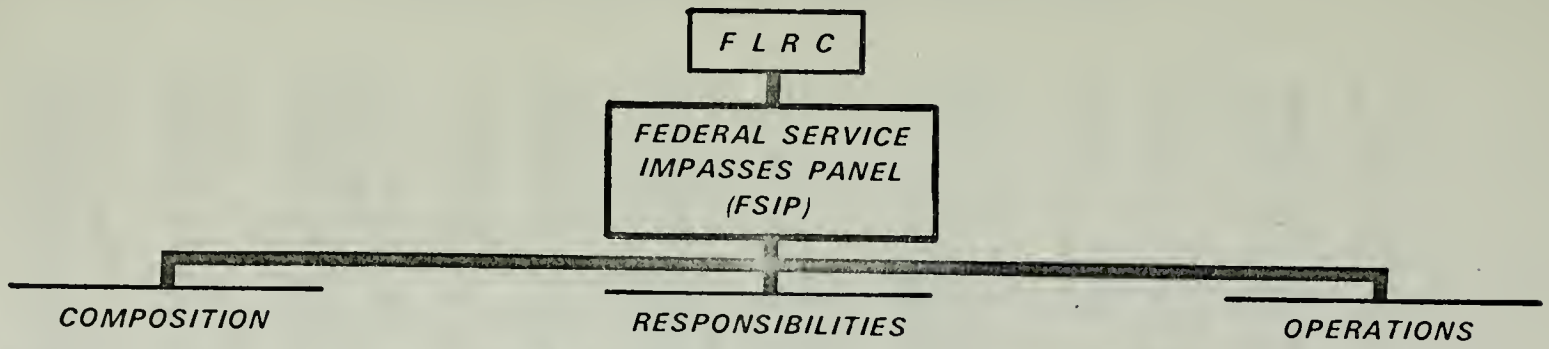
RESPONSIBILITIES

- PROVIDES MEDIATION SERVICES AND ASSISTANCE TO FEDERAL AGENCIES AND LABOR ORGANIZATIONS

OPERATIONS

- FUNCTIONS THROUGH HEADQUARTERS AND FIELD OFFICES NATIONWIDE
- DETERMINES THE CIRCUMSTANCES AND MANNER FOR PROFERRING ITS SERVICES
- SEEKS TO HELP PARTIES REACH AGREEMENT THROUGH NEGOTIATION
- IS INVOLVED AT REQUEST OF EITHER PARTY OR BY DIRECT PROFFER OF SERVICES, FOLLOWING SUBMISSION OF FORM 53

FEDERAL SERVICE IMPASSES PANEL (FSIP)



- AT LEAST THREE MEMBERS APPOINTED BY THE PRESIDENT, ONE OF WHOM HE DESIGNATES AS CHAIRMAN (PRESENTLY SEVEN MEMBERS)

- CONSIDERS NEGOTIATION IMPASSES
- TAKES SUCH ACTION AS IT CONSIDERS NECESSARY TO SETTLE IMPASSE

- GENERATED BY REQUEST OF EITHER OR BOTH AGENCY AND LABOR ORGANIZATION, FMCS OR FSIP EXECUTIVE SECRETARY FOLLOWING SUBMISSION OF REQUEST TO IMPASSES PANEL
- DETERMINES WHETHER PARTIES HAVE NEGOTIATED TO THE POINT OF IMPASSE. WHETHER FURTHER NEGOTIATIONS MIGHT RESOLVE IMPASSE, WHETHER VOLUNTARY ARRANGEMENTS FOR THIRD PARTY DISPUTES SETTLEMENTS MIGHT RESOLVE IMPASSE.
- CONSIDERS IMPASSE, RECOMMENDS PROCEDURES FOR RESOLVING IMPASSE (RETURN TO NEGOTIATIONS, MEDIATION OR OTHER VOLUNTARY ARRANGEMENTS) OR SETTLES IMPASSE BY APPROPRIATE ACTION.

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